



# ILLINOIS CRIMINAL DIVERSION RACIAL IMPACT DATA COLLECTION



# Illinois Criminal Diversion Racial Impact Data Collection

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## **Introduction**

Institutionalized racism, as well as implicit and explicit bias, have shaped the current American socio-political climate (Mauer, 2010). Few areas of society represent the potential for injustice and harm for people of color like the criminal justice system (Mauer, 2010; Tonry & Melewski, 2008). Diversion programs use multifaceted approaches to redirect people with a low risk of reoffending away from formal criminal justice system processing. Diversion options that move people away from the criminal justice system occur in policing and in the courts and include pre-arrest diversion, pre-charge diversion, post-charge diversion, and pre-conviction diversion (Crutchfield, 2010). However, inequities are seen even in diversion opportunities away from the criminal justice system. Each diversion point offers the potential for disparity among people of color in comparison to their White counterparts (Fan, 2013; Johnson, 2007). Such disparities may fall within legal bounds, but produce profound negative repercussions.

While research on racial disparity in diversion programs is limited, disparity is seen to varying degrees in Illinois and around the country (Crutchfield et al., 2010). In an Illinois Disproportionate Justice Impact Study Commission report, a limited analysis of Illinois data showed White individuals were more likely than non-Whites to participate in a court diversion program or probation (Illinois Disproportionate Justice Impact Study Commission, 2010). However, like many undertakings to measure disparity in diversion, several data limitations existed, including a lack of disposition data and reliable information on race and ethnicity. Existing court data systems in Illinois are not sufficient to complete an analysis of racial disparity in diversion. A comprehensive data collection system and data access at all diversion points in the criminal justice system is needed to effectively examine racial disparities in Illinois diversion.

This white paper offers an overview of the limited literature on racial and ethnic disparities in diversion. In addition, we reviewed the Illinois Criminal Diversion Racial Impact Data Collection Act of 2017 and the extent to which it can be executed. Finally, we offer an assessment of the existing data on race and ethnicity in diversion in the criminal justice system in Illinois.

## Literature Review

Diversion refers to any formal or informal process by which an individual, due to personal characteristics or the nature of the offense, is diverted from traditional criminal justice processing. Individuals who qualify for diversion often include juveniles, individuals with substance use or mental health disorders, those charged with non-violent drug offenses, individuals with developmental disabilities, and those committing first-time or low-level misdemeanor offenses. Diversion is offered in exchange for either assurance that a person will not repeat an offense (informal diversion) or will participate in, and complete, a diversion program (formal diversion) (Johnson, 2007).

Diversion is offered by various actors at different points in the criminal justice system. These include:

- Pre-arrest diversion based on a police officer's decision not to arrest.
- Pre-charge diversion based on a prosecutor's decision not to prosecute.
- Post-charge diversion or an offer of diversion in tandem with prosecution.
- Pre-conviction diversion based on a judge's decision to dismiss a case (Gertner, 2017).

Diversion originated in the mid-20th century in the juvenile justice system has played a role in the proliferation in the adult criminal justice system in recent decades. Diversion programs differ by state and jurisdiction, but they seek to rehabilitate justice-involved individuals and decrease spending by reducing the number of individuals under the jurisdiction of the criminal justice system (Fan, 2013).

### *Pre-Arrest Diversion*

Although research is limited to support the theory that pre-arrest diversion opportunities are racially inequitable, racial disparity in policing has been well-documented (Mauer, 2020, Schlesinger, 2018). Research suggests disproportionate minority contact occurs to the greatest degree at the front end of the criminal justice system in policing where there is more discretion and limited resources (Crutchfield, 2018; Ericson & Eckberg, 2015; Johnson, 2007; Mauer, 2010; Schlesinger, 2018). In addition, a study by Ericson and Eckberg (2015) found non-White juveniles were significantly less likely to be diverted by police, causing them to be formally entered within the juvenile justice system earlier than their White peers. This earlier entrance can play a role in future legal decisions that consider an individual's prior justice involvement.

### *Pretrial or Pre-Charge Diversion*

Of 14 million individuals arrested by police annually, approximately 1 million are charged with felonies. Of them 60% are convicted and 8% are offered pretrial diversion (Snyder, 2011). Research is limited on this area of diversion, as well. One study conducted by Schelinger (2013) ascertained that prosecutors were more likely to offer pretrial diversions to White defendants than Black or Latinx defendants, even when controlling for case characteristics, such as crime severity and a prior criminal record. Furthermore, Schlesinger (2013) found Latinx defendants' disparities existed for those with the most serious charge of a drug offense and who held no previous convictions compared to White defendants. However, disparities for Black defendants existed for those with a most serious charge of a drug crime regardless of previous convictions, as well as with defendants charged with violent crimes in absence of previous convictions compared to White defendants.

### ***Post-Charge Diversion***

Some research has noted racial disparity in opportunities for diversion at this stage (after arrest and charging). A Florida study found Black individuals were more likely to receive a sentence of time served in jail than Whites and White individuals were more likely to be offered diversion programs (Kutateladze et al., 2019). In case of felony drug and violent offense convictions, Black individuals were more likely to attain a sentence of time served in jail and least likely to receive diversion for than White individuals (Kutateladze et al., 2019).

A study by MacDonald et al. (2014) found racial disparities in a prison diversion program offered at the discretion of prosecutors and judges to people with eligible drug offenses. Black defendants were offered the program in 4% of drug-related cases and White defendants were offered the program in 8% of those cases. Black defendants were offered diversion in 5% of nonviolent felony cases and White defendants were offered the program in 12% of those cases (MacDonald et al., 2014).

The Illinois Disproportionate Justice Impact Study Commission reported that based on a limited analysis of Illinois data, White individuals were more likely than non-Whites to participate in a court diversion program or probation (Illinois Disproportionate Justice Impact Study Commission, 2010). However, study limitations included a lack of disposition data and reliable information on race and ethnicity. This study's findings are supported by other research concluding that White defendants are more likely to be offered and sentenced to probation than their Black counterparts (DeJong & Jackson, 1998; Leiber, 2008).

Reasons for racial disparities in diversion programs remain unexplained at the prosecutorial stage (MacDonald et al., 2014). A California study found in relation to the average probability of being diverted to a program, a statistically significant aspect of the Black-White difference (between 28-68%) was unexplained by case characteristics. Lastly, though judiciary-led diversion may occur, it is rare, and essentially nonexistent within the present literature (Gertner, 2017).

**Problem-solving courts.** Problem-solving courts, such as drug courts, mental health courts, and veteran's courts may operate either post-adjudication or as a type of diversion program (pre-adjudication) where individuals are offered entry with an agreement that the charges against them will be reduced or dismissed upon successful completion (National Institutes of Justice, n.d.) According to Marlowe (2013), Black individuals are slightly underrepresented in drug courts and Black and Latinx participants are less likely to graduate from drug court. However, more research on racial disparity in problem-solving courts is warranted.

## **Criminal Diversion Racial Impact Data Collection Act**

The Criminal Diversion Racial Impact Data Collection Act (20 ILCS 2637; P.A. 99-666) (the Act) was enacted January 1, 2017 (Appendix A). The Act's stated purpose is to "provide a mechanism by which statewide data on the race and ethnicity of offenders diverted from the criminal justice system before the filing of a court case can be provided by the criminal justice entity involved for future racial disparity impact analyses of the criminal justice system."

The Act states,

*(a) Under the reporting guidelines for law enforcement agencies in Sections 2.1, 4.5, and 5 of the Criminal Identification Act, the Authority shall determine and report the number of persons arrested and released without being charged, and report the racial and ethnic composition of those persons.*

Section 4.5 of the Criminal Identification Act (Appendix B) states,

*Ethnic and racial data for every adult or juvenile arrested shall be collected at the following points of contact by the entity identified in this subsection or another entity authorized and qualified to collect and report on this data and the first point is at arrest or booking, by the supervising law enforcement agency.*

The points of contact include arrest or booking, admittance to the Illinois Department of Corrections (IDOC) or the Illinois Department of Juvenile Justice (IDJJ), or transfer from IDJJ to IDOC. These points do not require this data for diversion options for diverted before the filing of a court case.

Section 2.1 of the Criminal Identification Act specifies,

*All policing bodies of this State, the clerk of the circuit court, the Illinois Department of Corrections, the sheriff of each county, and State's Attorney of each county to submit certain criminal arrest, charge, and disposition information to the Department for filing at the earliest time possible.*

However, in section 2.1, there is no call for the collection of race or ethnicity for arrests, charges, and dispositions.

The Act also states

*(b) Under the reporting guidelines for State's Attorneys in Sections 2.1, 4.5, and 5 of the Criminal Identification Act, the Authority shall determine and report the number of persons for which formal charges were dismissed, and the race and ethnicity of those persons.*

Section 4.5 of the Criminal Identification Act states that in addition to at arrest, race and ethnicity data shall be collected upon admittance to IDOC and IDJJ. However, there is no

requirement by state's attorney's offices to record individuals in cases in which formal charges were dismissed for a diversion option in pre-trial or post-conviction stages of the criminal justice system nor is there a requirement to record (or link to arrest records) the race and ethnicity of those individuals. Section 2.1 of the Criminal Identification Act does not call for the collection of race or ethnicity.

The Act references Section 5 of the Criminal Identification Act which lists what is contained in arrest records which includes racial and ethnic background data. However, it specifies collection of race and ethnicity for *arrests* not *diversion from arrests*.

In addition, the Act states,

*(c) Under the reporting guidelines for circuit court clerks in Sections 2.1, 4.5, and 5 of the Criminal Identification Act, the Authority shall determine and report the number of persons admitted to a diversion from prosecution program, and the racial and ethnic composition of those persons, separated by each type of diversion program.*

Sec 4.5 of the Criminal Identification Act states that in addition to at arrest, race and ethnicity data shall be collected upon admittance to IDOC and IDJJ. Therefore, there is no requirement for circuit clerks to record race and ethnicity in pre-trial or post-conviction stages of the criminal justice system. Again, Section 2.1 of the Criminal Identification Act does not call for the collection of race or ethnicity.

Finally, the Act states,

*(d) The Authority shall publish the information received and an assessment of the quality of the information received, aggregated to the county level in the case of law enforcement reports, on its publicly available website for the previous calendar year, as affirmed by each reporting agency at the time of its report submission.*

The statewide data and information on the race and ethnicity of individuals diverted from the criminal justice system before the filing of a court case are incomplete, unavailable, and/or not collected. Therefore, ICJIA is unable to publish that information. The next section offers an assessment of available data on race and ethnicity for diversion from the Illinois criminal justice system.

## **Racial Impact in Diversion Data Collection**

ICJIA researchers examined sources of data for estimating statewide prevalence of the use of diversion and/or racial/ethnic disparities in justice system diversion practices. ICJIA contacted appropriate state criminal justice agencies and membership associations to determine whether they had or could recommend how the following data, aggregated at the county level, could be obtained in accordance with the Act:

- The number of persons for which formal charges were dismissed and the race and ethnicity of those persons.
- The number of persons admitted to a diversion-from-prosecution program and the racial and ethnic composition of those persons, separated by diversion program type.

### **Illinois Arrest Data**

#### ***Criminal History Record Information***

The Illinois State Police (ISP) is the owner of the Criminal History Record Information (CHRI) system. ICJIA has an ad hoc connection to CHRI through an agreement with ISP for research purposes. CHRI arrest data currently available to ICJIA is missing, incomplete, and/or includes inaccurate information on:

- Arrests where individuals are released without charging.
- Formal arrest charges being dismissed
- Admissions to diversion from prosecution programs after arrest.

CHRI offers some information on instances of individuals who were fingerprinted and scanned into the CHRI system and released without being charged. This information does not provide an accurate representation of this group. First, law enforcement personnel enter data into the CHRI system only when there is probable cause for an individual to be arrested and charged with a crime. Although arrests without charges may be recorded in CHRI, the system is used in practice primarily to record arrests of those who *are* charged and not to record all discretionary arrest decisions. As a result, any CHRI-based estimate of those arrested and released without charges would be inaccurate. Second, it is unknown whether those released without charges were offered a diversion option. Finally, police procedures for filling out race and ethnicity when recording an arrest are unknown, as training on completing mandatory CHRI fields may vary by police department.

### **Illinois Courts Data**

#### ***Criminal History Record Information***

CHRI data does not inform statewide prevalence of decisions to prosecute or dismiss arrest charges. Currently, several large counties in Illinois are using an automated system or "direct file" reporting option to report that arrest charges are prosecuted. Other counties report manually and sometimes indicate when charges are dropped. A county-level comparison might show some counties are dropping more cases than others; however, inconsistent data reporting across



counties is likely to result in a massive undercount. In addition, it is unknown whether those released without charges were offered a diversion option.

### ***Administrative Office of the Illinois Courts (AOIC)***

AOIC serves as a central resource for operations that impact the administration of the judicial branch. AOIC assists the Chief Justice and the Illinois Supreme Court in leadership as the head of Illinois's judicial system, its courts, officers, offices, and programs through six divisions—Executive, Administrative Services, Court Services, Judicial Education, Civil Justice, Probation Services, and Judicial Management Information Services. There are limitations in what can be studied based on the current collection of AOIC's aggregate data. According to AOIC, the agency collects demographics and court intake types, but it is unable to examine demographics, such as race and ethnicity. Court intakes are categorized as probation, conditional discharge, supervision, pretrial, and problem-solving courts. AOIC is not able to determine which of those cases are marked for diversion with dismissal of charges upon successful completion (personal communication, J. Haegele-Ryterski, May 14, 2020).

In December 2017, the Illinois Supreme Court Commission on Pretrial Practices (Commission) was created. The Commission consulted with experts, listened to stakeholders, and analyzed sources of academic and professional analysis of pretrial issues. In 2020, the Commission released its recommendations, some of which were to improve data collection and performance measurement in pretrial and, generally, in the courts. The Commission recognized the Illinois system of data collection to be “antiquated and inefficient” and data to be “often missing or spotty and inconsistent.” The Commission recognized no statewide court database exists and an inability link or share datasets to access statewide data (Illinois Supreme Court Commission on Pretrial Practices, 2020).

The Commission's performance measurement recommendations included the following:

- AOIC should establish and adopt performance measurements to analyze the criminal justice system's effectiveness in administering pretrial justice.
- AOIC should adopt the following goals of performance measurements in identifying data metrics:
  - Highlight opportunities for pretrial system improvements.
  - Obtain a view of the landscape of pretrial in our state.
  - Allow for county comparisons.
  - Highlight data collection issues and quality.
  - Identify model/high functioning county systems.
  - Allocate sufficient resources to counties for data collection.
- AOIC shall establish a Pretrial Division to assist and support statewide implementation of pretrial recommendations.
- The Illinois General Assembly should allocate sufficient state funding to implement and sustain a robust individual-level data collection system for statewide uniform reporting.
- Illinois Supreme Court should request additional state resources for counties to add required data elements to their existing data collection system.

- AOIC shall allow for agreements with external research entities (e.g. Illinois Criminal Justice Information Authority, universities) to use the data to further study pretrial practices, risk assessment instrument development and validation.

### *Illinois State's Attorneys Offices*

According to the Illinois State Appellate Prosecutor's Office and the Illinois State's Attorneys Association, states attorney's offices collect data independently and in a manner that varies by county. Offices also submit data to their county circuit clerk's office. Counties have varying accessibility; some have electronic databases and some still use paper copies and files (personal communication, M. Kelly, May 13, 2020). No centralized database exists to obtain the data and it is unknown the extent to which there is data on prosecutorial diversion and the extent to which race and ethnicity is recorded.

### *Illinois County Circuit Clerks*

The president of the Illinois Circuit Clerks Association confirmed there is no centralized access to the data required in the Act and that cases would have to be pulled individually in each county for data collection (personal communication, H. Lemons, May 18, 2020). In addition, clerks are not always provided race/ethnicity data. Additionally, when a case is sent to diversion, state's attorneys often don't initiate an "official" court file with the circuit clerk's offices. Diversion cases often are handled between the state 's attorney's offices and probation department without ever entering the court system.

## Conclusion

Diversion programs use multifaceted approaches to redirect individuals committing first-time and low-risk offenses away from formal justice system processing. Each diversion decision point offers the potential for racial and ethnic disparities to emerge (Fan, 2013; Johnson, 2007). While research on the issue is limited, racial and ethnic bias in the criminal justice system has been documented. The Criminal Diversion Racial Impact Data Collection Act (20 ILCS 2637) was enacted to “provide a mechanism by which statewide data on the race and ethnicity of offenders diverted from the criminal justice system before the filing of a court case can be provided by the criminal justice entity involved for future racial disparity impact analyses of the criminal justice system.”

The Act states:

*the Authority shall publish the information received and an assessment of the quality of the information received, aggregated to the county level in the case of law enforcement reports, on its publicly available website for the previous calendar year, as affirmed by each reporting agency at the time of its report submission.*

ICJIA examined data sources, including Illinois State Police arrest data and court data from AOIC, circuit clerk’s offices, and state’s attorney’s offices. ICJIA confirmed diversion data, including races and ethnicities of those diverted, is not readily available. This data is not contained in a centralized database. In addition, the completion and accuracy of available data is questionable. Therefore, ICJIA is unable to carry out the work required by the Act.

Significant time and resources would be required to investigate county court level data availability. Data collection would require surveys, interviews, or focus groups to gather information on each data system. In addition, site visits and data audits would be required for information on the contents of each system and the completeness and quality of system data. Even with such a massive undertaking, the data may not be available or prove useful in answering questions about racial and ethnic disparities in criminal justice diversion programs in the state. Illinois is not unique in this problem, many state criminal justice systems fail to report race and ethnicity, or the data is of poor quality (Eppler-Epstein, et al., 2016; Ramirez et al., 2000). In general, increased and improved data collection on race and ethnicity in criminal justice is needed in order to better inform and improve policy and practice.

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## **Appendix A: Illinois Legislation Criminal Diversion Racial Impact Data Collection Act (20 ILCS 2637)**

(20 ILCS 2637/1)

(Section scheduled to be repealed on December 31, 2021)

Sec. 1. Short title. This Act may be cited as the Criminal Diversion Racial Impact Data Collection Act.

(Source: P.A. 99-666, eff. 1-1-17.)

(20 ILCS 2637/5)

(Section scheduled to be repealed on December 31, 2021)

Sec. 5. Legislative intent. Racial and ethnic disparity in the criminal justice system, or the over-representation of certain minority groups compared to their representation in the general population, has been well documented, along with the harmful effects of such disproportionality. There is no single cause of the racial and ethnic disparity evident at every stage of the criminal justice system; suggested causes have included differing patterns of criminal activity, law enforcement activity, and discretionary decisions of criminal justice practitioners, along with effects of legislative policies. In order to make progress in reducing this harmful phenomenon, information on the racial composition of offenders at each stage of the criminal justice system must be systematically gathered and analyzed to lay the foundation for determining the impact of proposed remedies. Gaps of information at any stage will hamper valid analysis at subsequent stages. At the earliest stages of the criminal justice system, systematic statewide information on arrested persons, including race and ethnicity, is collected in the State Police Criminal History Record Information System. However, under the Criminal Identification Act, systematic statewide information on the racial and ethnic composition of adults diverted from arrest by law enforcement and diverted from prosecution by each county's State's Attorney's office is not available. Therefore, it is the intent of this legislation to provide a mechanism by which statewide data on the race and ethnicity of offenders diverted from the criminal justice system before the filing of a court case can be provided by the criminal justice entity involved for future racial disparity impact analyses of the criminal justice system.

(Source: P.A. 99-666, eff. 1-1-17.)

(20 ILCS 2637/10)

(Section scheduled to be repealed on December 31, 2021)

Sec. 10. Definitions. As used in this Act:

"Arrested but released without being charged" means the taking into custody of a person by a law enforcement agency and his or her subsequent release without a formal charge filed.

"Authority" means the Illinois Criminal Justice Information Authority.

"Diversion from prosecution" means the placement of the defendant into any specialized program by the State's Attorney's office, after which formal charges are dismissed, subject to successful completion of the program.

"Law enforcement agency" means any agency of this State or a political subdivision of this State that is vested by law with the duty to maintain public order and to enforce criminal laws.

"Racial and ethnic information" means categories of socially significant groupings by which individuals identify themselves, based on physical characteristics and cultural heritage, as categorized under subsection (b) of Section 4.5 of the Criminal Identification Act.

(Source: P.A. 99-666, eff. 1-1-17.)

(20 ILCS 2637/15)

(Section scheduled to be repealed on December 31, 2021)

Sec. 15. Reporting; publication.

(a) Under the reporting guidelines for law enforcement agencies in Sections 2.1, 4.5, and 5 of the Criminal Identification Act, the Authority shall determine and report the number of persons arrested and released without being charged, and report the racial and ethnic composition of those persons.

(b) Under the reporting guidelines for State's Attorneys in Sections 2.1, 4.5, and 5 of the Criminal Identification Act, the Authority shall determine and report the number of persons for which formal charges were dismissed, and the race and ethnicity of those persons.

(c) Under the reporting guidelines for circuit court clerks in Sections 2.1, 4.5, and 5 of the Criminal Identification Act, the Authority shall determine and report the number of persons admitted to a diversion from prosecution program, and the racial and ethnic composition of those persons, separated by each type of diversion program.

(d) The Authority shall publish the information received and an assessment of the quality of the information received, aggregated to the county level in the case of law enforcement reports, on its publicly available website for the previous calendar year, as affirmed by each reporting agency at the time of its report submission.

(e) The Authority, Department of State Police, Administrative Office of Illinois Courts, and Illinois State's Attorneys Association may collaborate on any necessary training concerning the provisions of this Act.

(Source: P.A. 99-666, eff. 1-1-17.)

(20 ILCS 2637/20)

(Section scheduled to be repealed on December 31, 2021)

Sec. 20. Repeal. This Act is repealed on December 31, 2021.

(Source: P.A. 101-645, eff. 6-26-20.)

(20 ILCS 2637/99)

(Section scheduled to be repealed on December 31, 2021)

Sec. 99. Effective date. This Act takes effect January 1, 2017.

(Source: P.A. 99-666, eff. 1-1-17.)

## **Appendix B: Criminal Identification Act**

### **(20 ILCS 2630/) Criminal Identification Act.**

(20 ILCS 2630/0.01) (from Ch. 38, par. 206)

Sec. 0.01. Short title. This Act may be cited as the Criminal Identification Act.

(Source: P.A. 86-1324.)

(20 ILCS 2630/2.1) (from Ch. 38, par. 206-2.1)

Sec. 2.1. For the purpose of maintaining complete and accurate criminal records of the Department of State Police, it is necessary for all policing bodies of this State, the clerk of the circuit court, the Illinois Department of Corrections, the sheriff of each county, and State's Attorney of each county to submit certain criminal arrest, charge, and disposition information to the Department for filing at the earliest time possible. Unless otherwise noted herein, it shall be the duty of all policing bodies of this State, the clerk of the circuit court, the Illinois Department of Corrections, the sheriff of each county, and the State's Attorney of each county to report such information as provided in this Section, both in the form and manner required by the Department and within 30 days of the criminal history event. Specifically:

(a) Arrest Information. All agencies making arrests for offenses which are required by statute to be collected, maintained or disseminated by the Department of State Police shall be responsible for furnishing daily to the Department fingerprints, charges and descriptions of all persons who are arrested for such offenses. All such agencies shall also notify the Department of all decisions by the arresting agency not to refer such arrests for prosecution. With approval of the Department, an agency making such arrests may enter into arrangements with other agencies for the purpose of furnishing daily such fingerprints, charges and descriptions to the Department upon its behalf.

(b) Charge Information. The State's Attorney of each county shall notify the Department of all charges filed and all petitions filed alleging that a minor is delinquent, including all those added subsequent to the filing of a case, and whether charges were not filed in cases for which the Department has received information required to be reported pursuant to paragraph (a) of this Section. With approval of the Department, the State's Attorney may enter into arrangements with other agencies for the purpose of furnishing the information required by this subsection (b) to the Department upon the State's Attorney's behalf.

(c) Disposition Information. The clerk of the circuit court of each county shall furnish the Department, in the form and manner required by the Supreme Court, with all final dispositions of cases for which the Department has received information required to be reported pursuant to paragraph (a) or (d) of this Section. Such information shall include, for each charge, all (1) judgments of not guilty, judgments of guilty including the sentence pronounced by the court with statutory citations to the relevant sentencing provision, findings that a minor is delinquent and any sentence made based on those findings, discharges and dismissals in the court; (2) reviewing court orders filed with the clerk of the circuit court which reverse or remand a reported conviction or findings that a minor is delinquent or that vacate or modify a sentence or sentence made following a trial



that a minor is delinquent; (3) continuances to a date certain in furtherance of an order of supervision granted under Section 5-6-1 of the Unified Code of Corrections or an order of probation granted under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, Section 70 of the Methamphetamine Control and Community Protection Act, Section 12-4.3 or subdivision (b)(1) of Section 12-3.05 of the Criminal Code of 1961 or the Criminal Code of 2012, Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act, Section 40-10 of the Substance Use Disorder Act, Section 10 of the Steroid Control Act, or Section 5-615 of the Juvenile Court Act of 1987; and (4) judgments or court orders terminating or revoking a sentence to or juvenile disposition of probation, supervision or conditional discharge and any resentencing or new court orders entered by a juvenile court relating to the disposition of a minor's case involving delinquency after such revocation.

(d) Fingerprints After Sentencing.

(1) After the court pronounces sentence, sentences a minor following a trial in which a minor was found to be delinquent or issues an order of supervision or an order of probation granted under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, Section 70 of the Methamphetamine Control and Community Protection Act, Section 12-4.3 or subdivision (b)(1) of Section 12-3.05 of the Criminal Code of 1961 or the Criminal Code of 2012, Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act, Section 40-10 of the Substance Use Disorder Act, Section 10 of the Steroid Control Act, or Section 5-615 of the Juvenile Court Act of 1987 for any offense which is required by statute to be collected, maintained, or disseminated by the Department of State Police, the State's Attorney of each county shall ask the court to order a law enforcement agency to fingerprint immediately all persons appearing before the court who have not previously been fingerprinted for the same case. The court shall so order the requested fingerprinting, if it determines that any such person has not previously been fingerprinted for the same case. The law enforcement agency shall submit such fingerprints to the Department daily.

(2) After the court pronounces sentence or makes a disposition of a case following a finding of delinquency for any offense which is not required by statute to be collected, maintained, or disseminated by the Department of State Police, the prosecuting attorney may ask the court to order a law enforcement agency to fingerprint immediately all persons appearing before the court who have not previously been fingerprinted for the same case. The court may so order the requested fingerprinting, if it determines that any so sentenced person has not previously been fingerprinted for the same case. The law enforcement agency may retain such fingerprints in its files.

(e) Corrections Information. The Illinois Department of Corrections and the sheriff of each county shall furnish the Department with all information concerning the receipt, escape, execution, death, release, pardon, parole, commutation of sentence, granting of executive clemency or discharge of an individual who has been sentenced or committed to the agency's custody for any offenses which are mandated by statute to be collected, maintained or disseminated by the Department of State Police. For an individual who has been charged with any such offense and who escapes from custody or dies while in custody, all information concerning the receipt and

escape or death, whichever is appropriate, shall also be so furnished to the Department.

(Source: P.A. 100-3, eff. 1-1-18; 100-759, eff. 1-1-19.)

(20 ILCS 2630/4.5)

Sec. 4.5. Ethnic and racial data collection.

(a) Ethnic and racial data for every adult or juvenile arrested shall be collected at the following points of contact by the entity identified in this subsection or another entity authorized and qualified to collect and report on this data:

(1) at arrest or booking, by the supervising law enforcement agency;

(2) upon admittance to the Department of Corrections, by the Department of Corrections;

(3) upon admittance to the Department of Juvenile Justice, by the Department of Juvenile Justice; and

(4) upon transfer from the Department of Juvenile Justice to the Department of Corrections, by the Department of Juvenile Justice.

(b) Ethnic and racial data shall be collected through selection of one of the following categories:

(1) American Indian or Alaskan Native;

(2) Asian or Pacific Islander;

(3) Black or African American;

(4) White or Caucasian;

(5) Hispanic or Latino; or

(6) Unknown.

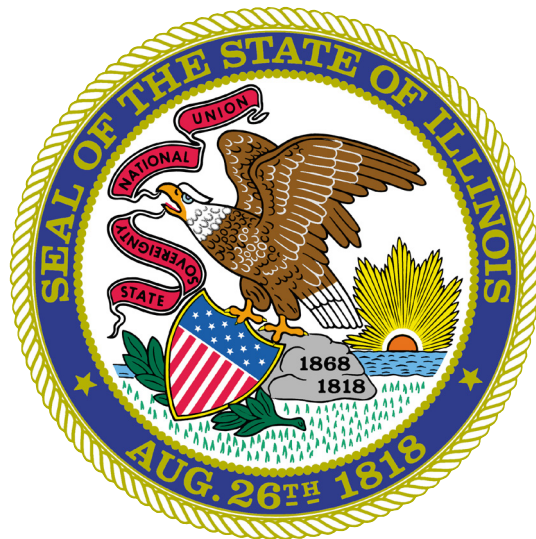
(c) The collecting entity shall make a good-faith effort to collect race and ethnicity information as self-reported by the adult or juvenile. If the adult or juvenile is unable or unwilling to provide race and ethnicity information, the collecting entity shall make a good-faith effort to deduce the race and ethnicity of the adult or juvenile.

(Source: P.A. 98-528, eff. 1-1-15; 99-78, eff. 7-20-15.)

(20 ILCS 2630/5) (from Ch. 38, par. 206-5)

Sec. 5. Arrest reports. All policing bodies of this State shall furnish to the Department, daily, in the form and detail the Department requires, fingerprints, descriptions, and ethnic and racial background data as provided in Section 4.5 of this Act of all persons who are arrested on charges of violating any penal statute of this State for offenses that are classified as felonies and Class A or B misdemeanors and of all minors of the age of 10 and over who have been arrested for an offense which would be a felony if committed by an adult, and may forward such fingerprints and descriptions for minors arrested for Class A or B misdemeanors. Moving or nonmoving traffic violations under the Illinois Vehicle Code shall not be reported except for violations of Chapter 4, Section 11-204.1, or Section 11-501 of that Code. In addition, conservation offenses, as defined in the Supreme Court Rule 501(c), that are classified as Class B misdemeanors shall not be reported. Those law enforcement records maintained by the Department for minors arrested for an offense prior to their 17th birthday, or minors arrested for a non-felony offense, if committed by an adult, prior to their 18th birthday, shall not be forwarded to the Federal Bureau of Investigation unless those records relate to an arrest in which a minor was charged as an adult under any of the transfer

provisions of the Juvenile Court Act of 1987.  
(Source: P.A. 98-528, eff. 1-1-15.)



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