



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB0904

Introduced 2/7/2007, by Rep. Sidney H. Mathias

#### SYNOPSIS AS INTRODUCED:

430 ILCS 65/10

from Ch. 38, par. 83-10

Amends the Firearm Owners Identification Card Act. Provides that a person who petitions the circuit court for the issuance of an order directing the Department of State Police to issue a Firearm Owner's Identification Card because the Department has denied his or her application, failed to act upon the person's request for issuance of the Card, or has revoked his or her Card because of a criminal conviction, must serve the State's Attorney of the county in which the petition is brought and the State's Attorney of the county in which the conviction occurred (rather than the relevant State's Attorney) with a copy of the petition. Provides that the State's Attorney of the county where the petition is brought may object to the petition and present evidence at the hearing on the petition.

LRB095 08182 RLC 28348 b

1 AN ACT concerning firearms.

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

4 Section 5. The Firearm Owners Identification Card Act is  
5 amended by changing Section 10 as follows:

6 (430 ILCS 65/10) (from Ch. 38, par. 83-10)

7 Sec. 10. (a) Whenever an application for a Firearm Owner's  
8 Identification Card is denied, whenever the Department fails to  
9 act on an application within 30 days of its receipt, or  
10 whenever such a Card is revoked or seized as provided for in  
11 Section 8 of this Act, the aggrieved party may appeal to the  
12 Director of the Department of State Police for a hearing upon  
13 such denial, revocation or seizure, unless the denial,  
14 revocation, or seizure was based upon a forcible felony,  
15 stalking, aggravated stalking, domestic battery, any violation  
16 of the Illinois Controlled Substances Act, the Methamphetamine  
17 Control and Community Protection Act, or the Cannabis Control  
18 Act that is classified as a Class 2 or greater felony, any  
19 felony violation of Article 24 of the Criminal Code of 1961, or  
20 any adjudication as a delinquent minor for the commission of an  
21 offense that if committed by an adult would be a felony, in  
22 which case the aggrieved party may petition the circuit court  
23 in writing in the county of his or her residence for a hearing

1 upon such denial, revocation, or seizure.

2 (b) At least 30 days before any hearing in the circuit  
3 court, the petitioner shall serve the ~~relevant~~ State's Attorney  
4 of the county where the petition is brought and the State's  
5 Attorney of the county where the conviction occurred with a  
6 copy of the petition. The State's Attorney of the county where  
7 the petition is brought may object to the petition and present  
8 evidence. At the hearing the court shall determine whether  
9 substantial justice has been done. Should the court determine  
10 that substantial justice has not been done, the court shall  
11 issue an order directing the Department of State Police to  
12 issue a Card.

13 (c) Any person prohibited from possessing a firearm under  
14 Sections 24-1.1 or 24-3.1 of the Criminal Code of 1961 or  
15 acquiring a Firearm Owner's Identification Card under Section 8  
16 of this Act may apply to the Director of the Department of  
17 State Police or petition the circuit court in the county where  
18 the petitioner resides, whichever is applicable in accordance  
19 with subsection (a) of this Section, requesting relief from  
20 such prohibition and the Director or court may grant such  
21 relief if it is established by the applicant to the court's or  
22 Director's satisfaction that:

23 (0.05) when in the circuit court, the State's Attorney  
24 of the county where the petition was brought has been  
25 served with a written copy of the petition at least 30 days  
26 before any such hearing in the circuit court and at the

1 hearing the State's Attorney of the county where the  
2 petition was brought was afforded an opportunity to present  
3 evidence and object to the petition;

4 (1) the applicant has not been convicted of a forcible  
5 felony under the laws of this State or any other  
6 jurisdiction within 20 years of the applicant's  
7 application for a Firearm Owner's Identification Card, or  
8 at least 20 years have passed since the end of any period  
9 of imprisonment imposed in relation to that conviction;

10 (2) the circumstances regarding a criminal conviction,  
11 where applicable, the applicant's criminal history and his  
12 reputation are such that the applicant will not be likely  
13 to act in a manner dangerous to public safety; and

14 (3) granting relief would not be contrary to the public  
15 interest.

16 (d) When a minor is adjudicated delinquent for an offense  
17 which if committed by an adult would be a felony, the court  
18 shall notify the Department of State Police.

19 (e) The court shall review the denial of an application or  
20 the revocation of a Firearm Owner's Identification Card of a  
21 person who has been adjudicated delinquent for an offense that  
22 if committed by an adult would be a felony if an application  
23 for relief has been filed at least 10 years after the  
24 adjudication of delinquency and the court determines that the  
25 applicant should be granted relief from disability to obtain a  
26 Firearm Owner's Identification Card. If the court grants

1 relief, the court shall notify the Department of State Police  
2 that the disability has been removed and that the applicant is  
3 eligible to obtain a Firearm Owner's Identification Card.  
4 (Source: P.A. 93-367, eff. 1-1-04; 94-556, eff. 9-11-05.)