

HB0887



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB0887

by Rep. Daniel Didech

SYNOPSIS AS INTRODUCED:

430 ILCS 65/4
430 ILCS 65/8

from Ch. 38, par. 83-4
from Ch. 38, par. 83-8

Amends the Firearm Owners Identification Card Act. Provides that the Department of State Police has authority to deny an application for or to revoke and seize a Firearm Owner's Identification Card previously issued under the Act if the Department finds that the applicant or the person to whom the card was issued is or was at the time of issuance a person who has been convicted within the past 5 years of stalking or a substantially similar offense in another jurisdiction, in which a firearm was used or possessed. Makes conforming changes.

LRB101 05911 SLF 50932 b

A BILL FOR

1 AN ACT concerning safety.

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 Sections 4 and 8 as follows:

6 (430 ILCS 65/4) (from Ch. 38, par. 83-4)

7 Sec. 4. (a) Each applicant for a Firearm Owner's
8 Identification Card must:

9 (1) Make application on blank forms prepared and
10 furnished at convenient locations throughout the State by
11 the Department of State Police, or by electronic means, if
12 and when made available by the Department of State Police;
13 and

14 (2) Submit evidence to the Department of State Police
15 that:

16 (i) He or she is 21 years of age or over, or if he
17 or she is under 21 years of age that he or she has the
18 written consent of his or her parent or legal guardian
19 to possess and acquire firearms and firearm ammunition
20 and that he or she has never been convicted of a
21 misdemeanor other than a traffic offense or adjudged
22 delinquent, provided, however, that such parent or
23 legal guardian is not an individual prohibited from

1 having a Firearm Owner's Identification Card and files
2 an affidavit with the Department as prescribed by the
3 Department stating that he or she is not an individual
4 prohibited from having a Card;

5 (ii) He or she has not been convicted of a felony
6 under the laws of this or any other jurisdiction;

7 (iii) He or she is not addicted to narcotics;

8 (iv) He or she has not been a patient in a mental
9 health facility within the past 5 years or, if he or
10 she has been a patient in a mental health facility more
11 than 5 years ago submit the certification required
12 under subsection (u) of Section 8 of this Act;

13 (v) He or she is not a person with an intellectual
14 disability;

15 (vi) He or she is not an alien who is unlawfully
16 present in the United States under the laws of the
17 United States;

18 (vii) He or she is not subject to an existing order
19 of protection prohibiting him or her from possessing a
20 firearm;

21 (viii) He or she has not been convicted within the
22 past 5 years of battery, assault, aggravated assault,
23 violation of an order of protection, stalking, or a
24 substantially similar offense in another jurisdiction,
25 in which a firearm was used or possessed;

26 (ix) He or she has not been convicted of domestic

1 battery, aggravated domestic battery, or a
2 substantially similar offense in another jurisdiction
3 committed before, on or after January 1, 2012 (the
4 effective date of Public Act 97-158). If the applicant
5 knowingly and intelligently waives the right to have an
6 offense described in this clause (ix) tried by a jury,
7 and by guilty plea or otherwise, results in a
8 conviction for an offense in which a domestic
9 relationship is not a required element of the offense
10 but in which a determination of the applicability of 18
11 U.S.C. 922(g)(9) is made under Section 112A-11.1 of the
12 Code of Criminal Procedure of 1963, an entry by the
13 court of a judgment of conviction for that offense
14 shall be grounds for denying the issuance of a Firearm
15 Owner's Identification Card under this Section;

16 (x) (Blank);

17 (xi) He or she is not an alien who has been
18 admitted to the United States under a non-immigrant
19 visa (as that term is defined in Section 101(a)(26) of
20 the Immigration and Nationality Act (8 U.S.C.
21 1101(a)(26))), or that he or she is an alien who has
22 been lawfully admitted to the United States under a
23 non-immigrant visa if that alien is:

24 (1) admitted to the United States for lawful
25 hunting or sporting purposes;

26 (2) an official representative of a foreign

1 government who is:

2 (A) accredited to the United States
3 Government or the Government's mission to an
4 international organization having its
5 headquarters in the United States; or

6 (B) en route to or from another country to
7 which that alien is accredited;

8 (3) an official of a foreign government or
9 distinguished foreign visitor who has been so
10 designated by the Department of State;

11 (4) a foreign law enforcement officer of a
12 friendly foreign government entering the United
13 States on official business; or

14 (5) one who has received a waiver from the
15 Attorney General of the United States pursuant to
16 18 U.S.C. 922 (y) (3);

17 (xii) He or she is not a minor subject to a
18 petition filed under Section 5-520 of the Juvenile
19 Court Act of 1987 alleging that the minor is a
20 delinquent minor for the commission of an offense that
21 if committed by an adult would be a felony;

22 (xiii) He or she is not an adult who had been
23 adjudicated a delinquent minor under the Juvenile
24 Court Act of 1987 for the commission of an offense that
25 if committed by an adult would be a felony;

26 (xiv) He or she is a resident of the State of

1 Illinois;

2 (xv) He or she has not been adjudicated as a person
3 with a mental disability;

4 (xvi) He or she has not been involuntarily admitted
5 into a mental health facility; and

6 (xvii) He or she is not a person with a
7 developmental disability; and

8 (3) Upon request by the Department of State Police,
9 sign a release on a form prescribed by the Department of
10 State Police waiving any right to confidentiality and
11 requesting the disclosure to the Department of State Police
12 of limited mental health institution admission information
13 from another state, the District of Columbia, any other
14 territory of the United States, or a foreign nation
15 concerning the applicant for the sole purpose of
16 determining whether the applicant is or was a patient in a
17 mental health institution and disqualified because of that
18 status from receiving a Firearm Owner's Identification
19 Card. No mental health care or treatment records may be
20 requested. The information received shall be destroyed
21 within one year of receipt.

22 (a-5) Each applicant for a Firearm Owner's Identification
23 Card who is over the age of 18 shall furnish to the Department
24 of State Police either his or her Illinois driver's license
25 number or Illinois Identification Card number, except as
26 provided in subsection (a-10).

1 (a-10) Each applicant for a Firearm Owner's Identification
2 Card, who is employed as a law enforcement officer, an armed
3 security officer in Illinois, or by the United States Military
4 permanently assigned in Illinois and who is not an Illinois
5 resident, shall furnish to the Department of State Police his
6 or her driver's license number or state identification card
7 number from his or her state of residence. The Department of
8 State Police may adopt rules to enforce the provisions of this
9 subsection (a-10).

10 (a-15) If an applicant applying for a Firearm Owner's
11 Identification Card moves from the residence address named in
12 the application, he or she shall immediately notify in a form
13 and manner prescribed by the Department of State Police of that
14 change of address.

15 (a-20) Each applicant for a Firearm Owner's Identification
16 Card shall furnish to the Department of State Police his or her
17 photograph. An applicant who is 21 years of age or older
18 seeking a religious exemption to the photograph requirement
19 must furnish with the application an approved copy of United
20 States Department of the Treasury Internal Revenue Service Form
21 4029. In lieu of a photograph, an applicant regardless of age
22 seeking a religious exemption to the photograph requirement
23 shall submit fingerprints on a form and manner prescribed by
24 the Department with his or her application.

25 (b) Each application form shall include the following
26 statement printed in bold type: "Warning: Entering false

1 information on an application for a Firearm Owner's
2 Identification Card is punishable as a Class 2 felony in
3 accordance with subsection (d-5) of Section 14 of the Firearm
4 Owners Identification Card Act."

5 (c) Upon such written consent, pursuant to Section 4,
6 paragraph (a)(2)(i), the parent or legal guardian giving the
7 consent shall be liable for any damages resulting from the
8 applicant's use of firearms or firearm ammunition.

9 (Source: P.A. 98-63, eff. 7-9-13; 99-143, eff. 7-27-15.)

10 (430 ILCS 65/8) (from Ch. 38, par. 83-8)

11 Sec. 8. Grounds for denial and revocation. The Department
12 of State Police has authority to deny an application for or to
13 revoke and seize a Firearm Owner's Identification Card
14 previously issued under this Act only if the Department finds
15 that the applicant or the person to whom such card was issued
16 is or was at the time of issuance:

17 (a) A person under 21 years of age who has been
18 convicted of a misdemeanor other than a traffic offense or
19 adjudged delinquent;

20 (b) A person under 21 years of age who does not have
21 the written consent of his parent or guardian to acquire
22 and possess firearms and firearm ammunition, or whose
23 parent or guardian has revoked such written consent, or
24 where such parent or guardian does not qualify to have a
25 Firearm Owner's Identification Card;

1 (c) A person convicted of a felony under the laws of
2 this or any other jurisdiction;

3 (d) A person addicted to narcotics;

4 (e) A person who has been a patient of a mental health
5 facility within the past 5 years or a person who has been a
6 patient in a mental health facility more than 5 years ago
7 who has not received the certification required under
8 subsection (u) of this Section. An active law enforcement
9 officer employed by a unit of government who is denied,
10 revoked, or has his or her Firearm Owner's Identification
11 Card seized under this subsection (e) may obtain relief as
12 described in subsection (c-5) of Section 10 of this Act if
13 the officer did not act in a manner threatening to the
14 officer, another person, or the public as determined by the
15 treating clinical psychologist or physician, and the
16 officer seeks mental health treatment;

17 (f) A person whose mental condition is of such a nature
18 that it poses a clear and present danger to the applicant,
19 any other person or persons or the community;

20 (g) A person who has an intellectual disability;

21 (h) A person who intentionally makes a false statement
22 in the Firearm Owner's Identification Card application;

23 (i) An alien who is unlawfully present in the United
24 States under the laws of the United States;

25 (i-5) An alien who has been admitted to the United
26 States under a non-immigrant visa (as that term is defined

1 in Section 101(a)(26) of the Immigration and Nationality
2 Act (8 U.S.C. 1101(a)(26)), except that this subsection
3 (i-5) does not apply to any alien who has been lawfully
4 admitted to the United States under a non-immigrant visa if
5 that alien is:

6 (1) admitted to the United States for lawful
7 hunting or sporting purposes;

8 (2) an official representative of a foreign
9 government who is:

10 (A) accredited to the United States Government
11 or the Government's mission to an international
12 organization having its headquarters in the United
13 States; or

14 (B) en route to or from another country to
15 which that alien is accredited;

16 (3) an official of a foreign government or
17 distinguished foreign visitor who has been so
18 designated by the Department of State;

19 (4) a foreign law enforcement officer of a friendly
20 foreign government entering the United States on
21 official business; or

22 (5) one who has received a waiver from the Attorney
23 General of the United States pursuant to 18 U.S.C.
24 922(y)(3);

25 (j) (Blank);

26 (k) A person who has been convicted within the past 5

1 years of battery, assault, aggravated assault, violation
2 of an order of protection, stalking, or a substantially
3 similar offense in another jurisdiction, in which a firearm
4 was used or possessed;

5 (l) A person who has been convicted of domestic
6 battery, aggravated domestic battery, or a substantially
7 similar offense in another jurisdiction committed before,
8 on or after January 1, 2012 (the effective date of Public
9 Act 97-158). If the applicant or person who has been
10 previously issued a Firearm Owner's Identification Card
11 under this Act knowingly and intelligently waives the right
12 to have an offense described in this paragraph (l) tried by
13 a jury, and by guilty plea or otherwise, results in a
14 conviction for an offense in which a domestic relationship
15 is not a required element of the offense but in which a
16 determination of the applicability of 18 U.S.C. 922(g)(9)
17 is made under Section 112A-11.1 of the Code of Criminal
18 Procedure of 1963, an entry by the court of a judgment of
19 conviction for that offense shall be grounds for denying an
20 application for and for revoking and seizing a Firearm
21 Owner's Identification Card previously issued to the
22 person under this Act;

23 (m) (Blank);

24 (n) A person who is prohibited from acquiring or
25 possessing firearms or firearm ammunition by any Illinois
26 State statute or by federal law;

1 (o) A minor subject to a petition filed under Section
2 5-520 of the Juvenile Court Act of 1987 alleging that the
3 minor is a delinquent minor for the commission of an
4 offense that if committed by an adult would be a felony;

5 (p) An adult who had been adjudicated a delinquent
6 minor under the Juvenile Court Act of 1987 for the
7 commission of an offense that if committed by an adult
8 would be a felony;

9 (q) A person who is not a resident of the State of
10 Illinois, except as provided in subsection (a-10) of
11 Section 4;

12 (r) A person who has been adjudicated as a person with
13 a mental disability;

14 (s) A person who has been found to have a developmental
15 disability;

16 (t) A person involuntarily admitted into a mental
17 health facility; or

18 (u) A person who has had his or her Firearm Owner's
19 Identification Card revoked or denied under subsection (e)
20 of this Section or item (iv) of paragraph (2) of subsection
21 (a) of Section 4 of this Act because he or she was a
22 patient in a mental health facility as provided in
23 subsection (e) of this Section, shall not be permitted to
24 obtain a Firearm Owner's Identification Card, after the
25 5-year period has lapsed, unless he or she has received a
26 mental health evaluation by a physician, clinical

1 psychologist, or qualified examiner as those terms are
2 defined in the Mental Health and Developmental
3 Disabilities Code, and has received a certification that he
4 or she is not a clear and present danger to himself,
5 herself, or others. The physician, clinical psychologist,
6 or qualified examiner making the certification and his or
7 her employer shall not be held criminally, civilly, or
8 professionally liable for making or not making the
9 certification required under this subsection, except for
10 willful or wanton misconduct. This subsection does not
11 apply to a person whose firearm possession rights have been
12 restored through administrative or judicial action under
13 Section 10 or 11 of this Act.

14 Upon revocation of a person's Firearm Owner's
15 Identification Card, the Department of State Police shall
16 provide notice to the person and the person shall comply with
17 Section 9.5 of this Act.

18 (Source: P.A. 98-63, eff. 7-9-13; 98-508, eff. 8-19-13; 98-756,
19 eff. 7-16-14; 99-143, eff. 7-27-15.)