



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0183

Introduced 1/12/2005, 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 Provides that a person who has been denied an application for a Firearm Owner's Identification Card or whose Card was revoked or seized for certain specified reasons may petition the circuit court in the county where the original charges which were the bases of the denial, revocation, or seizure were brought (rather than the circuit court in the county of the petitioner's residence). If the act for which the denial, revocation, or seizure was given is based on an out-of-state criminal offense, then the person may petition the circuit court in the county of the petitioner's residence. Provides that a copy of the petition must be served on the State's Attorney of the county where the petition is brought and the Department of State Police. Provides that at the hearing on the petition, the Department may present evidence and object to the petition.

LRB094 03906 RLC 33918 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 either the Illinois Controlled Substances Act or the
17 Cannabis Control Act that is classified as a Class 2 or greater
18 felony, any felony violation of Article 24 of the Criminal Code
19 of 1961, or any adjudication as a delinquent minor for the
20 commission of an offense that if committed by an adult would be
21 a felony, in which case the aggrieved party may petition the
22 circuit court in writing in the county of his or her residence
23 for a hearing upon such denial, revocation, or seizure. If the
24 original denial of the application for a Firearm Owner's
25 Identification Card by the Department or revocation or seizure
26 of the Firearm Owner's Identification Card by the Department
27 was based upon a finding by the Department for any of the
28 reasons described in paragraph (a), (c), (j), (k), (l), (m),
29 (o), or (p) of Section 8 of this Act, the aggrieved party may
30 petition the circuit court in the county where the original
31 charges which were the bases of the denial, revocation, or
32 seizure were brought. If the act for which the denial,

1 revocation, or seizure was given is based on an out-of-state
2 criminal offense, then the aggrieved party may petition the
3 circuit court in the county of the petitioner's residence.

4 (b) At least 30 days before any hearing in the circuit
5 court, the petitioner shall serve the ~~relevant~~ State's Attorney
6 of the county where the petition is brought and the Department
7 with a copy of the petition. The State's Attorney or the
8 Department may object to the petition and present evidence. At
9 the hearing the court shall determine whether substantial
10 justice has been done. Should the court determine that
11 substantial justice has not been done, the court shall issue an
12 order directing the Department of State Police to 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 or in the county in which the original
19 charges that were the bases of the prohibition were brought,
20 whichever is applicable in accordance with subsection (a) of
21 this Section, requesting relief from such prohibition and the
22 Director or court may grant such relief if it is established by
23 the applicant to the court's or Director's satisfaction that:

24 (0.05) when in the circuit court, the State's Attorney
25 and the Department have ~~has~~ been served with a written copy
26 of the petition at least 30 days before any such hearing in
27 the circuit court and at the hearing the State's Attorney
28 and the Department were ~~was~~ afforded an opportunity to
29 present evidence and object to the petition;

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

36 (2) the circumstances regarding a criminal conviction,

1 where applicable, the applicant's criminal history and his
2 reputation are such that the applicant will not be likely
3 to act in a manner dangerous to public safety; and

4 (3) granting relief would not be contrary to the public
5 interest.

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

9 (e) The court shall review the denial of an application or
10 the revocation of a Firearm Owner's Identification Card of a
11 person who has been adjudicated delinquent for an offense that
12 if committed by an adult would be a felony if an application
13 for relief has been filed at least 10 years after the
14 adjudication of delinquency and the court determines that the
15 applicant should be granted relief from disability to obtain a
16 Firearm Owner's Identification Card. If the court grants
17 relief, the court shall notify the Department of State Police
18 that the disability has been removed and that the applicant is
19 eligible to obtain a Firearm Owner's Identification Card.

20 (Source: P.A. 92-442, eff. 8-17-01; 93-367, eff. 1-1-04.)