



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB3390

by Rep. Kelly M. Cassidy - Christian L. Mitchell

SYNOPSIS AS INTRODUCED:

430 ILCS 65/8
720 ILCS 5/8-4

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

Amends the Firearm Owners Identification Card Act. Provides that the Department of State Police shall revoke for one year the Firearm Owner's Identification Card of a card holder who reports to the local law enforcement agency his or her firearms lost or stolen in 3 separate incidents within a 2-year period. Provides that any law enforcement agency that has knowledge that a card holder has reported his or her firearms lost or stolen in 3 separate incidents within a 2-year period shall forthwith forward that information to the Department of State Police. Provides that for the purposes of this provision, an "incident" means an occasion in which the card holder's firearm or firearms have been lost or stolen regardless of the number of firearms stolen in the incident and the report of the loss or theft of the firearm or firearms on one occasion shall be considered one incident. Provides that if a law enforcement agency recovers a firearm that had been lost or stolen and has not been previously reported as lost or stolen, the recovery of the firearm shall be considered an incident for the purpose of this provision. Amends the Criminal Code of 2012. Provides that the sentence for attempt to acquire a firearm by use of a revoked Firearm Owner's Identification Card is a Class 4 felony.

LRB100 10169 RLC 20350 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

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 8 as follows:

6 (430 ILCS 65/8) (from Ch. 38, par. 83-8)

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

13 (a) A person under 21 years of age who has been
14 convicted of a misdemeanor other than a traffic offense or
15 adjudged delinquent;

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

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

1 (d) A person addicted to narcotics;

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

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

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

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

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

23 (i-5) An alien who has been admitted to the United
24 States under a non-immigrant visa (as that term is defined
25 in Section 101(a)(26) of the Immigration and Nationality
26 Act (8 U.S.C. 1101(a)(26))), except that this subsection

1 (i-5) does not apply to any alien who has been lawfully
2 admitted to the United States under a non-immigrant visa if
3 that alien is:

4 (1) admitted to the United States for lawful
5 hunting or sporting purposes;

6 (2) an official representative of a foreign
7 government who is:

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

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

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

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

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

23 (j) (Blank);

24 (k) A person who has been convicted within the past 5
25 years of battery, assault, aggravated assault, violation
26 of an order of protection, or a substantially similar

1 offense in another jurisdiction, in which a firearm was
2 used or possessed;

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

21 (m) (Blank);

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

25 (o) A minor subject to a petition filed under Section
26 5-520 of the Juvenile Court Act of 1987 alleging that the

1 minor is a delinquent minor for the commission of an
2 offense that if committed by an adult would be a felony;

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

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

10 (r) A person who has been adjudicated as a person with
11 a mental disability;

12 (s) A person who has been found to have a developmental
13 disability;

14 (t) A person involuntarily admitted into a mental
15 health facility; or

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

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

12 The Department of State Police shall revoke for one year
13 the Firearm Owner's Identification Card of a card holder who
14 reports to a local law enforcement agency his or her firearms
15 lost or stolen in 3 separate incidents within a 2-year period.
16 Any law enforcement agency that has knowledge that a card
17 holder has reported his or her firearms lost or stolen in 3
18 separate incidents within a 2-year period shall forthwith
19 forward that information to the Department of State Police. For
20 the purposes of this paragraph, an "incident" means an occasion
21 in which the card holder's firearm or firearms have been lost
22 or stolen regardless of the number of firearms lost or stolen
23 in the incident and the report of the loss or theft of the
24 firearm or firearms on one occasion shall be considered one
25 incident. If a law enforcement agency recovers a firearm that
26 had been lost or stolen and has not been previously reported as

1 lost or stolen, the recovery of the firearm shall be considered
2 an incident for the purpose of this paragraph.

3 Upon revocation of a person's Firearm Owner's
4 Identification Card, the Department of State Police shall
5 provide notice to the person and the person shall comply with
6 Section 9.5 of this Act.

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

9 Section 10. The Criminal Code of 2012 is amended by
10 changing Section 8-4 as follows:

11 (720 ILCS 5/8-4) (from Ch. 38, par. 8-4)

12 Sec. 8-4. Attempt.

13 (a) Elements of the offense.

14 A person commits the offense of attempt when, with intent
15 to commit a specific offense, he or she does any act that
16 constitutes a substantial step toward the commission of that
17 offense.

18 (b) Impossibility.

19 It is not a defense to a charge of attempt that because of
20 a misapprehension of the circumstances it would have been
21 impossible for the accused to commit the offense attempted.

22 (c) Sentence.

23 A person convicted of attempt may be fined or imprisoned or
24 both not to exceed the maximum provided for the offense

1 attempted but, except for an attempt to commit the offense
2 defined in Section 33A-2 of this Code:

3 (1) the sentence for attempt to commit first degree
4 murder is the sentence for a Class X felony, except that

5 (A) an attempt to commit first degree murder when
6 at least one of the aggravating factors specified in
7 paragraphs (1), (2), and (12) of subsection (b) of
8 Section 9-1 is present is a Class X felony for which
9 the sentence shall be a term of imprisonment of not
10 less than 20 years and not more than 80 years;

11 (B) an attempt to commit first degree murder while
12 armed with a firearm is a Class X felony for which 15
13 years shall be added to the term of imprisonment
14 imposed by the court;

15 (C) an attempt to commit first degree murder during
16 which the person personally discharged a firearm is a
17 Class X felony for which 20 years shall be added to the
18 term of imprisonment imposed by the court;

19 (D) an attempt to commit first degree murder during
20 which the person personally discharged a firearm that
21 proximately caused great bodily harm, permanent
22 disability, permanent disfigurement, or death to
23 another person is a Class X felony for which 25 years
24 or up to a term of natural life shall be added to the
25 term of imprisonment imposed by the court; and

26 (E) if the defendant proves by a preponderance of

1 the evidence at sentencing that, at the time of the
2 attempted murder, he or she was acting under a sudden
3 and intense passion resulting from serious provocation
4 by the individual whom the defendant endeavored to
5 kill, or another, and, had the individual the defendant
6 endeavored to kill died, the defendant would have
7 negligently or accidentally caused that death, then
8 the sentence for the attempted murder is the sentence
9 for a Class 1 felony;

10 (2) the sentence for attempt to commit a Class X felony
11 is the sentence for a Class 1 felony;

12 (3) the sentence for attempt to commit a Class 1 felony
13 is the sentence for a Class 2 felony;

14 (4) the sentence for attempt to commit a Class 2 felony
15 is the sentence for a Class 3 felony; ~~and~~

16 (4.1) the sentence for attempt to commit a violation of
17 paragraph (1) of subsection (a) of Section 2 of the Firearm
18 Owners Identification Card Act by use of a revoked Firearm
19 Owner's Identification Card is a Class 4 felony; and

20 (5) the sentence for attempt to commit any felony other
21 than those specified in items (1), (2), (3), ~~and~~ (4), and
22 (4.1) of this subsection (c) is the sentence for a Class A
23 misdemeanor.

24 (Source: P.A. 96-710, eff. 1-1-10.)