

August 17, 2012

To the Honorable Members of the  
Illinois House of Representatives,  
97<sup>th</sup> General Assembly:

I hereby return House Bill 4673 with specific recommendations for change. House Bill 4673 allows a local law enforcement officer to retain his or her Firearm Owner's Identification (FOID) Card if he or she has been a patient in a mental institution within the past five (5) years, so long as the officer has not been involuntarily admitted to a mental institution or has not been treated as an inpatient in a mental institution for more than thirty (30) days.

As Governor, I am a strong supporter of our law enforcement officers and recognize the grueling pressures – both mental and physical – that are placed upon them daily as they protect the citizens of Illinois from harm. These men and women face the same personal pressures as many of us – anxiety, addictions, divorce, financial worries, and job dissatisfaction. On top of personal stresses, the job-related stress of dealing with the most violent members of society and with dangerous or troubling situations can be too much. These officers work in a profession where lack of mental clarity can be deadly, and I want them to feel that they can voluntarily seek the professional mental health assistance they need without the fear of losing their jobs, benefits, and livelihood.

While House Bill 4673 gives officers that freedom, it also allows an officer to continue to possess a valid FOID Card while exhibiting suicidal or threatening behaviors. House Bill 4673 exempts local law enforcement from any type of restriction on the possession of a FOID Card in the event of a voluntary commitment, or an inpatient admission of less than thirty (30) days, regardless of the type of treatment sought. Under the bill there is no requirement that a clinical psychologist, psychiatrist or qualified examiner affirm that the officer, having received treatment, is mentally fit to carry a firearm. Moreover, if a qualified examiner finds that the individual is *not* fit to carry a firearm, there is no requirement that that the Illinois State Police (ISP) be notified of this finding.

It is counter-intuitive to exempt from the mental health provisions of the Firearm Owners Identification Act individuals whose occupation is not only stressful but also requires them to carry firearms. The combination of mental health concerns and access to weapons could be lethal and is a result we should seek to avoid at all costs.

I want to commend the sponsors and interested parties for working with me to arrive at some compromise language to address the loopholes created in the underlying bill.

Therefore, pursuant to the sponsors' request and Article IV, Section 9(e) of the Illinois Constitution of 1970, I hereby return House Bill 4673, entitled "AN ACT concerning firearms", with the following specific recommendations for change:

on page 1, line 5, by replacing "Sections 4 and 8" with "Sections 4, 8, and 10"; and

on page 2, by replacing lines 8 through 25 with the following:

"(iv) He or she has not been a patient in a mental institution within the past 5 years ~~and he or she has not been adjudicated as a mental defective~~"; and

on page 4, line 23, by replacing "and" with "~~and~~"; and

on page 5, by inserting immediately below line 1 the following:

"(xiv) He or she has not been adjudicated as a mental defective; and"; and

on page 6, by inserting immediately below line 12 the following:

"(d) Nothing in clause (a)(2)(iv) of Section 4 and subsection (e) of Section 8 of this Act shall be interpreted to independently require or permit a unit of government, which requires the possession of a valid Firearm Owner's Identification Card as a condition of employment, to terminate, suspend, or place on leave without pay an officer subject to subsection (e) of Section 8 of this Act from the time of denial, revocation, or seizure and while the officer's request for relief pursuant to Section 10 of this Act is pending."; and

on page 7, by replacing lines 8 through 22 with the following:

"(e) A person who has been a patient of a mental institution within the past 5 years. An active law enforcement officer employed by a unit of government which requires possession of a valid Firearm Owner's Identification Card as a condition for employment who is covered by this Section but was not acting in a manner which was threatening to the officer, another person, or the public as determined by the treating clinical psychologist or physician, and as a result of their work is referred by the employer for or voluntarily seeks alcohol or mental health treatment may obtain relief as described in subsection (a) of Section 10 of this Act ~~or has been adjudicated as a mental defective;~~"; and

on page 9, line 24, by replacing "or" with "~~or~~"; and

on page 10, line 1, by replacing "." with "; ~~or~~"; and

on page 10, by inserting after line 1 the following:

"(q) A person who has been adjudicated as a mental defective."; and

on page 10, after line 3, by inserting:

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

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

(1) An active law enforcement officer employed by a unit of government, which requires the possession of a valid Firearm Owner's Identification Card as a condition for employment, who is covered by subsection (e) of Section 8 but was not acting in a manner which was threatening to the officer, another person, or the public as determined by the treating clinical psychologist or physician, and as a result of their work is referred by the employer for or voluntarily seeks:

(A) alcohol abuse or dependence or alcohol-related depressive disorder

evaluation or treatment by a licensed clinical psychologist, or physician licensed to practice medicine in all its branches; or

(B) mental health evaluation or treatment other than that described in clause (A) above by a licensed clinical psychologist, psychiatrist, or qualified examiner, may obtain relief from the prohibition in subsection (e) of Section 8 of this Act as described in paragraph (2) below so long as the person has not received treatment involuntarily at a mental institution, regardless of length of admission, or has not been voluntarily admitted to a mental institution for more than 30 days and not for more than one incident within the past 5 years, and has not left such mental institution against medical advice.

(2) The Director of the Department of State Police shall grant expedited relief:

(A) to persons pursuant to clause (1)(A) above within 15 business days of receipt of written confirmation in the form prescribed by the Director from the treating licensed clinical psychologist or physician that the provisions set forth in paragraph (1) of this subsection (a) have been met, the person successfully completed treatment, and the person's possession of a firearm does not present a threat to themselves, others, or public safety; or

(B) upon a determination by the Director that the person's possession of a firearm does not present a threat to themselves, others, or public safety to persons pursuant to clause (1)(B) within 30 business days of receipt of:

(i) a notarized statement from the petitioner in the form prescribed by the Director detailing the circumstances that led to the hospitalization;

(ii) all documentation regarding the admission, evaluation, treatment and discharge from the treating licensed clinical psychologist or psychiatrist of such officer;

(iii) a psychological fitness for duty evaluation of such person completed after the time of discharge; and

(iv) written confirmation in the form prescribed by the Director from the treating licensed clinical psychologist or psychiatrist that the provisions set forth in paragraph (1) of this subsection (a) have been met, the person successfully completed treatment, and their professional opinion regarding the person's ability to possess firearms.

(3) Officers eligible for the expedited relief process outlined in clauses (a)(2)(A) and (B) of this Section are responsible for providing proof of eligibility and all information required and will not be considered for expedited relief until such proof and information is received by the Director.

(4) "Clinical psychologist", "psychiatrist", and "qualified examiner" shall have the same meaning as provided in Chapter I of the Mental Health and Developmental Disabilities Code.

(b) At least 30 days before any hearing in the circuit court, the petitioner shall serve the relevant State's Attorney with a copy of the petition. The State's Attorney may object to the petition and present evidence. At the hearing the court shall determine whether substantial justice has been done. Should the court determine that substantial justice has not been done, the court shall issue an order directing the Department of State Police to issue a Card.

(c) Any person prohibited from possessing a firearm under Sections 24-1.1 or 24-3.1 of the Criminal Code of 196 or acquiring a Firearm Owner's Identification Card under Section 8 of this Act may apply to the Director of the Department of State Police or petition the circuit court in the county where the petitioner resides, whichever is applicable in accordance with subsection (a) of this Section, requesting relief from such prohibition and the Director or court may grant such relief if it is established by the applicant to the court's or Director's satisfaction that:

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

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

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

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

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

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

(f) Any person who is prohibited from possessing a firearm under 18 U.S. C. 922 (d)(4) and 922 (g)(4) of the federal Gun Control Act of 1968 may apply to the Department of State Police requesting relief from such prohibition and the Director shall grant such relief if it is established to the Director's satisfaction that the person will not be likely to act in a manner dangerous to public safety and granting relief would not be contrary to the public interest."; and

on page 10, by replacing lines 4 and 5 with the following:

"Section 99. Effective date. This Act takes effect on January 1, 2013."

With these changes, House Bill 4673 will have my approval. I respectfully request your concurrence.

Sincerely,

PAT QUINN  
Governor