



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5231

by Rep. Michael P. McAuliffe

SYNOPSIS AS INTRODUCED:

New Act
430 ILCS 65/8

from Ch. 38, par. 83-8

Creates the Law Enforcement Support Program Confidentiality Act. Provides that information, omissions, confessions, or other communication obtained by a participant in a peer support program involving a peer support counselor from a law enforcement officer, public safety employee, peace officer, firefighter, or emergency services personnel shall be considered confidential information and shall not be released to any person or entity, including, but not limited to, a court, administrative agency or tribunal, or public officer or employer, unless: (1) to the extent it appears necessary to prevent the commission of an act that is likely to result in a clear imminent risk of serious physical injury or death of a person or persons; (2) when required by court order; or (3) when, after full disclosure has been provided, the person who made the confession, admission, or other communication has given specific written consent. Amends the Firearm Owners Identification Card Act. Provides that a provision permitting the Department of State Police to deny an application for or to revoke and seize a Firearm Owner's Identification Card of a person who has been a patient of a mental health facility within the past 5 years is not applicable to an active law enforcement officer employed by a unit of government, unless the Department receives an affirmative statement by a treating clinical psychologist or physician that the law enforcement officer is a threat to himself or herself, another person, or the public. Effective immediately.

LRB100 20039 SLF 35321 b

1 AN ACT concerning law enforcement officers.

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

4 Section 1. Short title. This Act may be cited as the Law
5 Enforcement Support Program Confidentiality Act.

6 Section 5. Law enforcement support program
7 confidentiality.

8 (a) In this Act:

9 "Peer support program" means a program established by a
10 law enforcement agency, public safety employer, union, or
11 other entity providing counseling support, referrals,
12 information, or other social services to law enforcement
13 officers, public safety employees, peace officers,
14 firefighters, or emergency services personnel.

15 "Peer support counselor" is a person offering
16 counseling services through a peer support program.

17 (b) Information, omissions, confessions, or other
18 communication obtained by a participant in a peer support
19 program involving a peer support counselor from a law
20 enforcement officer, public safety employee, peace officer,
21 firefighter, or emergency services personnel shall be
22 considered confidential information and shall not be released
23 to any person or entity, including, but not limited to, a

1 court, administrative agency or tribunal, or public officer or
2 employer, unless: (1) to the extent it appears necessary to
3 prevent the commission of an act that is likely to result in a
4 clear imminent risk of serious physical injury or death of a
5 person or persons; (2) when required by court order; or (3)
6 when, after full disclosure has been provided, the person who
7 made the confession, admission, or other communication has
8 given specific written consent.

9 Section 105. The Firearm Owners Identification Card Act is
10 amended by changing Section 8 as follows:

11 (430 ILCS 65/8) (from Ch. 38, par. 83-8)

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

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

21 (b) A person under 21 years of age who does not have
22 the written consent of his parent or guardian to acquire
23 and possess firearms and firearm ammunition, or whose
24 parent or guardian has revoked such written consent, or

1 where such parent or guardian does not qualify to have a
2 Firearm Owner's Identification Card;

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

5 (d) A person addicted to narcotics;

6 (e) A person who has been a patient of a mental health
7 facility within the past 5 years or a person who has been a
8 patient in a mental health facility more than 5 years ago
9 who has not received the certification required under
10 subsection (u) of this Section. An active law enforcement
11 officer employed by a unit of government who is denied,
12 revoked, or has his or her Firearm Owner's Identification
13 Card seized under this subsection (e) may obtain relief as
14 described in subsection (c-5) of Section 10 of this Act if
15 the officer did not act in a manner threatening to the
16 officer, another person, or the public as determined by the
17 treating clinical psychologist or physician, and the
18 officer seeks mental health treatment. However, an active
19 law enforcement officer employed by a unit of government,
20 shall not have his or her Firearm Owner's Identification
21 Card denied, revoked, or seized because the law enforcement
22 officer has been a patient of a mental health facility
23 within the past 5 years, unless the Department receives an
24 affirmative statement by a treating clinical psychologist
25 or physician that the law enforcement officer is a threat
26 to himself or herself, another person, or the public;

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

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

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

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

9 (i-5) An alien who has been admitted to the United
10 States under a non-immigrant visa (as that term is defined
11 in Section 101(a)(26) of the Immigration and Nationality
12 Act (8 U.S.C. 1101(a)(26))), except that this subsection
13 (i-5) does not apply to any alien who has been lawfully
14 admitted to the United States under a non-immigrant visa if
15 that alien is:

16 (1) admitted to the United States for lawful
17 hunting or sporting purposes;

18 (2) an official representative of a foreign
19 government who is:

20 (A) accredited to the United States Government
21 or the Government's mission to an international
22 organization having its headquarters in the United
23 States; or

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

26 (3) an official of a foreign government or

1 distinguished foreign visitor who has been so
2 designated by the Department of State;

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

6 (5) one who has received a waiver from the Attorney
7 General of the United States pursuant to 18 U.S.C.
8 922(y) (3);

9 (j) (Blank);

10 (k) A person who has been convicted within the past 5
11 years of battery, assault, aggravated assault, violation
12 of an order of protection, or a substantially similar
13 offense in another jurisdiction, in which a firearm was
14 used or possessed;

15 (l) A person who has been convicted of domestic
16 battery, aggravated domestic battery, or a substantially
17 similar offense in another jurisdiction committed before,
18 on or after January 1, 2012 (the effective date of Public
19 Act 97-158). If the applicant or person who has been
20 previously issued a Firearm Owner's Identification Card
21 under this Act knowingly and intelligently waives the right
22 to have an offense described in this paragraph (l) tried by
23 a jury, and by guilty plea or otherwise, results in a
24 conviction for an offense in which a domestic relationship
25 is not a required element of the offense but in which a
26 determination of the applicability of 18 U.S.C. 922(g) (9)

1 is made under Section 112A-11.1 of the Code of Criminal
2 Procedure of 1963, an entry by the court of a judgment of
3 conviction for that offense shall be grounds for denying an
4 application for and for revoking and seizing a Firearm
5 Owner's Identification Card previously issued to the
6 person under this Act;

7 (m) (Blank);

8 (n) A person who is prohibited from acquiring or
9 possessing firearms or firearm ammunition by any Illinois
10 State statute or by federal law;

11 (o) A minor subject to a petition filed under Section
12 5-520 of the Juvenile Court Act of 1987 alleging that the
13 minor is a delinquent minor for the commission of an
14 offense that if committed by an adult would be a felony;

15 (p) An adult who had been adjudicated a delinquent
16 minor under the Juvenile Court Act of 1987 for the
17 commission of an offense that if committed by an adult
18 would be a felony;

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

22 (r) A person who has been adjudicated as a person with
23 a mental disability;

24 (s) A person who has been found to have a developmental
25 disability;

26 (t) A person involuntarily admitted into a mental

1 health facility; or

2 (u) A person who has had his or her Firearm Owner's
3 Identification Card revoked or denied under subsection (e)
4 of this Section or item (iv) of paragraph (2) of subsection
5 (a) of Section 4 of this Act because he or she was a
6 patient in a mental health facility as provided in
7 subsection (e) of this Section, shall not be permitted to
8 obtain a Firearm Owner's Identification Card, after the
9 5-year period has lapsed, unless he or she has received a
10 mental health evaluation by a physician, clinical
11 psychologist, or qualified examiner as those terms are
12 defined in the Mental Health and Developmental
13 Disabilities Code, and has received a certification that he
14 or she is not a clear and present danger to himself,
15 herself, or others. The physician, clinical psychologist,
16 or qualified examiner making the certification and his or
17 her employer shall not be held criminally, civilly, or
18 professionally liable for making or not making the
19 certification required under this subsection, except for
20 willful or wanton misconduct. This subsection does not
21 apply to a person whose firearm possession rights have been
22 restored through administrative or judicial action under
23 Section 10 or 11 of this Act.

24 Upon revocation of a person's Firearm Owner's
25 Identification Card, the Department of State Police shall
26 provide notice to the person and the person shall comply with

1 Section 9.5 of this Act.

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

4 Section 999. Effective date. This Act takes effect upon
5 becoming law.