



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB5533

by Rep. Kelly M. Cassidy

#### 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 a 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 forward that information to the Department of State Police. Provides that "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 16777 SLF 31917 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

A BILL FOR

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          A law enforcement agency that has knowledge that a card holder  
17          has reported his or her firearms lost or stolen in 3 separate  
18          incidents within a 2-year period shall forward that information  
19          to the Department of State Police. In this paragraph,  
20          "incident" means an occasion in which the card holder's firearm  
21          or firearms have been lost or stolen regardless of the number  
22          of firearms lost or stolen in the incident and the report of  
23          the loss or theft of the firearm or firearms on one occasion  
24          shall be considered one incident. If a law enforcement agency  
25          recovers a firearm that had been lost or stolen and has not  
26          been previously reported as lost or stolen, the recovery of the

1 firearm shall be considered an incident for the purpose of this  
2 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.)