



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB5647

by Rep. Peter Breen

#### SYNOPSIS AS INTRODUCED:

430 ILCS 65/4  
430 ILCS 65/8

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

Amends the Firearm Owners Identification Card Act. Provides that an applicant for a Firearm Owner's Identification Card must submit evidence to the Department of State Police that he or she has not been convicted of a misdemeanor sex offense under the Criminal Code of 2012. Provides that the Department of State Police has authority to deny an application for or to revoke and seize a Firearm Owner's Identification Card previously issued under the Act only if the Department finds that the applicant or the person to whom the card was issued is or was at the time of issuance a person who was convicted of a misdemeanor sex offense under the Criminal Code of 2012.

LRB100 18667 SLF 33894 b

1 AN ACT concerning safety.

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 Sections 4 and 8 as follows:

6 (430 ILCS 65/4) (from Ch. 38, par. 83-4)

7 Sec. 4. (a) Each applicant for a Firearm Owner's  
8 Identification Card must:

9 (1) Make application on blank forms prepared and  
10 furnished at convenient locations throughout the State by  
11 the Department of State Police, or by electronic means, if  
12 and when made available by the Department of State Police;  
13 and

14 (2) Submit evidence to the Department of State Police  
15 that:

16 (i) He or she is 21 years of age or over, or if he  
17 or she is under 21 years of age that he or she has the  
18 written consent of his or her parent or legal guardian  
19 to possess and acquire firearms and firearm ammunition  
20 and that he or she has never been convicted of a  
21 misdemeanor other than a traffic offense or adjudged  
22 delinquent, provided, however, that such parent or  
23 legal guardian is not an individual prohibited from

1 having a Firearm Owner's Identification Card and files  
2 an affidavit with the Department as prescribed by the  
3 Department stating that he or she is not an individual  
4 prohibited from having a Card;

5 (ii) He or she has not been convicted of a felony  
6 under the laws of this or any other jurisdiction;

7 (iii) He or she is not addicted to narcotics;

8 (iv) He or she has not been a patient in a mental  
9 health facility within the past 5 years or, if he or  
10 she has been a patient in a mental health facility more  
11 than 5 years ago submit the certification required  
12 under subsection (u) of Section 8 of this Act;

13 (v) He or she is not a person with an intellectual  
14 disability;

15 (vi) He or she is not an alien who is unlawfully  
16 present in the United States under the laws of the  
17 United States;

18 (vii) He or she is not subject to an existing order  
19 of protection prohibiting him or her from possessing a  
20 firearm;

21 (viii) He or she has not been convicted within the  
22 past 5 years of battery, assault, aggravated assault,  
23 violation of an order of protection, or a substantially  
24 similar offense in another jurisdiction, in which a  
25 firearm was used or possessed;

26 (ix) He or she has not been convicted of domestic

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

16 (x) (Blank);

17 (xi) He or she is not an alien who has been  
18 admitted to the United States under a non-immigrant  
19 visa (as that term is defined in Section 101(a)(26) of  
20 the Immigration and Nationality Act (8 U.S.C.  
21 1101(a)(26))), or that he or she is an alien who has  
22 been lawfully admitted to the United States under a  
23 non-immigrant visa if that alien is:

24 (1) admitted to the United States for lawful  
25 hunting or sporting purposes;

26 (2) an official representative of a foreign

1 government who is:

2 (A) accredited to the United States  
3 Government or the Government's mission to an  
4 international organization having its  
5 headquarters in the United States; or

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

8 (3) an official of a foreign government or  
9 distinguished foreign visitor who has been so  
10 designated by the Department of State;

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

14 (5) one who has received a waiver from the  
15 Attorney General of the United States pursuant to  
16 18 U.S.C. 922 (y) (3);

17 (xii) He or she is not a minor subject to a  
18 petition filed under Section 5-520 of the Juvenile  
19 Court Act of 1987 alleging that the minor is a  
20 delinquent minor for the commission of an offense that  
21 if committed by an adult would be a felony;

22 (xiii) He or she is not an adult who had been  
23 adjudicated a delinquent minor under the Juvenile  
24 Court Act of 1987 for the commission of an offense that  
25 if committed by an adult would be a felony;

26 (xiv) He or she is a resident of the State of

1 Illinois;

2 (xv) He or she has not been adjudicated as a person  
3 with a mental disability;

4 (xvi) He or she has not been involuntarily admitted  
5 into a mental health facility; ~~and~~

6 (xvii) He or she is not a person with a  
7 developmental disability; ~~and~~

8 (xviii) He or she has not been convicted of a  
9 misdemeanor offense under Article 11 of the Criminal  
10 Code of 2012; and

11 (3) Upon request by the Department of State Police,  
12 sign a release on a form prescribed by the Department of  
13 State Police waiving any right to confidentiality and  
14 requesting the disclosure to the Department of State Police  
15 of limited mental health institution admission information  
16 from another state, the District of Columbia, any other  
17 territory of the United States, or a foreign nation  
18 concerning the applicant for the sole purpose of  
19 determining whether the applicant is or was a patient in a  
20 mental health institution and disqualified because of that  
21 status from receiving a Firearm Owner's Identification  
22 Card. No mental health care or treatment records may be  
23 requested. The information received shall be destroyed  
24 within one year of receipt.

25 (a-5) Each applicant for a Firearm Owner's Identification  
26 Card who is over the age of 18 shall furnish to the Department

1 of State Police either his or her Illinois driver's license  
2 number or Illinois Identification Card number, except as  
3 provided in subsection (a-10).

4 (a-10) Each applicant for a Firearm Owner's Identification  
5 Card, who is employed as a law enforcement officer, an armed  
6 security officer in Illinois, or by the United States Military  
7 permanently assigned in Illinois and who is not an Illinois  
8 resident, shall furnish to the Department of State Police his  
9 or her driver's license number or state identification card  
10 number from his or her state of residence. The Department of  
11 State Police may adopt rules to enforce the provisions of this  
12 subsection (a-10).

13 (a-15) If an applicant applying for a Firearm Owner's  
14 Identification Card moves from the residence address named in  
15 the application, he or she shall immediately notify in a form  
16 and manner prescribed by the Department of State Police of that  
17 change of address.

18 (a-20) Each applicant for a Firearm Owner's Identification  
19 Card shall furnish to the Department of State Police his or her  
20 photograph. An applicant who is 21 years of age or older  
21 seeking a religious exemption to the photograph requirement  
22 must furnish with the application an approved copy of United  
23 States Department of the Treasury Internal Revenue Service Form  
24 4029. In lieu of a photograph, an applicant regardless of age  
25 seeking a religious exemption to the photograph requirement  
26 shall submit fingerprints on a form and manner prescribed by

1 the Department with his or her application.

2 (b) Each application form shall include the following  
3 statement printed in bold type: "Warning: Entering false  
4 information on an application for a Firearm Owner's  
5 Identification Card is punishable as a Class 2 felony in  
6 accordance with subsection (d-5) of Section 14 of the Firearm  
7 Owners Identification Card Act."

8 (c) Upon such written consent, pursuant to Section 4,  
9 paragraph (a)(2)(i), the parent or legal guardian giving the  
10 consent shall be liable for any damages resulting from the  
11 applicant's use of firearms or firearm ammunition.

12 (Source: P.A. 98-63, eff. 7-9-13; 99-143, eff. 7-27-15.)

13 (430 ILCS 65/8) (from Ch. 38, par. 83-8)

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

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

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



1 parent or guardian has revoked such written consent, or  
2 where such parent or guardian does not qualify to have a  
3 Firearm Owner's Identification Card;

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

6 (d) A person addicted to narcotics;

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

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

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

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

26 (i) An alien who is unlawfully present in the United

1 States under the laws of the United States;

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

9 (1) admitted to the United States for lawful  
10 hunting or sporting purposes;

11 (2) an official representative of a foreign  
12 government who is:

13 (A) accredited to the United States Government  
14 or the Government's mission to an international  
15 organization having its headquarters in the United  
16 States; or

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

19 (3) an official of a foreign government or  
20 distinguished foreign visitor who has been so  
21 designated by the Department of State;

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

25 (5) one who has received a waiver from the Attorney  
26 General of the United States pursuant to 18 U.S.C.

1           922 (y) (3);

2           (j) (Blank);

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

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

26           (m) (Blank);

1           (n) A person who is prohibited from acquiring or  
2           possessing firearms or firearm ammunition by any Illinois  
3           State statute or by federal law;

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

8           (p) An adult who had been adjudicated a delinquent  
9           minor under the Juvenile Court Act of 1987 for the  
10          commission of an offense that if committed by an adult  
11          would be a felony;

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

15          (r) A person who has been adjudicated as a person with  
16          a mental disability;

17          (s) A person who has been found to have a developmental  
18          disability;

19          (t) A person involuntarily admitted into a mental  
20          health facility; ~~or~~

21          (u) A person who has had his or her Firearm Owner's  
22          Identification Card revoked or denied under subsection (e)  
23          of this Section or item (iv) of paragraph (2) of subsection  
24          (a) of Section 4 of this Act because he or she was a  
25          patient in a mental health facility as provided in  
26          subsection (e) of this Section, shall not be permitted to

1 obtain a Firearm Owner's Identification Card, after the  
2 5-year period has lapsed, unless he or she has received a  
3 mental health evaluation by a physician, clinical  
4 psychologist, or qualified examiner as those terms are  
5 defined in the Mental Health and Developmental  
6 Disabilities Code, and has received a certification that he  
7 or she is not a clear and present danger to himself,  
8 herself, or others. The physician, clinical psychologist,  
9 or qualified examiner making the certification and his or  
10 her employer shall not be held criminally, civilly, or  
11 professionally liable for making or not making the  
12 certification required under this subsection, except for  
13 willful or wanton misconduct. This subsection does not  
14 apply to a person whose firearm possession rights have been  
15 restored through administrative or judicial action under  
16 Section 10 or 11 of this Act; ~~or-~~

17 (v) A person who was convicted of a misdemeanor offense  
18 under Article 11 of the Criminal Code of 2012.

19 Upon revocation of a person's Firearm Owner's  
20 Identification Card, the Department of State Police shall  
21 provide notice to the person and the person shall comply with  
22 Section 9.5 of this Act.

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