

HB0431



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB0431

Introduced 2/8/2021, by Rep. Norine K. Hammond - Tony McCombie
and Joe Sosnowski

SYNOPSIS AS INTRODUCED:

430 ILCS 65/10

from Ch. 38, par. 83-10

Amends the Firearm Owners Identification Card Act. Provides that once the aggrieved party submits all required information for his or her appeal, updated information shall not be required from the party when the Illinois State Police has not completed the review of the appeal within the required 60 days.

LRB102 03990 RLC 14006 b

A BILL FOR

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 Section 10 as follows:

6 (430 ILCS 65/10) (from Ch. 38, par. 83-10)

7 Sec. 10. Appeal to director; hearing; relief from firearm
8 prohibitions.

9 (a) Whenever an application for a Firearm Owner's
10 Identification Card is denied, whenever the Department fails
11 to act on an application within 30 days of its receipt, or
12 whenever such a Card is revoked or seized as provided for in
13 Section 8 of this Act, the aggrieved party may appeal to the
14 Director of State Police for a hearing upon such denial,
15 revocation or seizure, unless the denial, revocation, or
16 seizure was based upon a forcible felony, stalking, aggravated
17 stalking, domestic battery, any violation of the Illinois
18 Controlled Substances Act, the Methamphetamine Control and
19 Community Protection Act, or the Cannabis Control Act that is
20 classified as a Class 2 or greater felony, any felony
21 violation of Article 24 of the Criminal Code of 1961 or the
22 Criminal Code of 2012, or any adjudication as a delinquent
23 minor for the commission of an offense that if committed by an

1 adult would be a felony, in which case the aggrieved party may
2 petition the circuit court in writing in the county of his or
3 her residence for a hearing upon such denial, revocation, or
4 seizure. Once the aggrieved party submits all required
5 information for his or her appeal, updated information shall
6 not be required from the party when the Illinois State Police
7 has not completed the review of the appeal within the required
8 60 days.

9 (b) At least 30 days before any hearing in the circuit
10 court, the petitioner shall serve the relevant State's
11 Attorney with a copy of the petition. The State's Attorney may
12 object to the petition and present evidence. At the hearing
13 the court shall determine whether substantial justice has been
14 done. Should the court determine that substantial justice has
15 not been done, the court shall issue an order directing the
16 Department of State Police to issue a Card. However, the court
17 shall not issue the order if the petitioner is otherwise
18 prohibited from obtaining, possessing, or using a firearm
19 under federal law.

20 (c) Any person prohibited from possessing a firearm under
21 Sections 24-1.1 or 24-3.1 of the Criminal Code of 2012 or
22 acquiring a Firearm Owner's Identification Card under Section
23 8 of this Act may apply to the Director of State Police or
24 petition the circuit court in the county where the petitioner
25 resides, whichever is applicable in accordance with subsection
26 (a) of this Section, requesting relief from such prohibition

1 and the Director or court may grant such relief if it is
2 established by the applicant to the court's or Director's
3 satisfaction that:

4 (0.05) when in the circuit court, the State's Attorney
5 has been served with a written copy of the petition at
6 least 30 days before any such hearing in the circuit court
7 and at the hearing the State's Attorney was afforded an
8 opportunity to present evidence and object to the
9 petition;

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

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

20 (3) granting relief would not be contrary to the
21 public interest; and

22 (4) granting relief would not be contrary to federal
23 law.

24 (c-5) (1) An active law enforcement officer employed by a
25 unit of government, who is denied, revoked, or has his or her
26 Firearm Owner's Identification Card seized under subsection

1 (e) of Section 8 of this Act may apply to the Director of State
2 Police requesting relief if the officer did not act in a manner
3 threatening to the officer, another person, or the public as
4 determined by the treating clinical psychologist or physician,
5 and as a result of his or her work is referred by the employer
6 for or voluntarily seeks mental health evaluation or treatment
7 by a licensed clinical psychologist, psychiatrist, or
8 qualified examiner, and:

9 (A) the officer has not received treatment
10 involuntarily at a mental health facility, regardless of
11 the length of admission; or has not been voluntarily
12 admitted to a mental health facility for more than 30 days
13 and not for more than one incident within the past 5 years;
14 and

15 (B) the officer has not left the mental institution
16 against medical advice.

17 (2) The Director of State Police shall grant expedited
18 relief to active law enforcement officers described in
19 paragraph (1) of this subsection (c-5) upon a determination by
20 the Director that the officer's possession of a firearm does
21 not present a threat to themselves, others, or public safety.
22 The Director shall act on the request for relief within 30
23 business days of receipt of:

24 (A) a notarized statement from the officer in the form
25 prescribed by the Director detailing the circumstances
26 that led to the hospitalization;

1 (B) all documentation regarding the admission,
2 evaluation, treatment and discharge from the treating
3 licensed clinical psychologist or psychiatrist of the
4 officer;

5 (C) a psychological fitness for duty evaluation of the
6 person completed after the time of discharge; and

7 (D) written confirmation in the form prescribed by the
8 Director from the treating licensed clinical psychologist
9 or psychiatrist that the provisions set forth in paragraph
10 (1) of this subsection (c-5) have been met, the person
11 successfully completed treatment, and their professional
12 opinion regarding the person's ability to possess
13 firearms.

14 (3) Officers eligible for the expedited relief in
15 paragraph (2) of this subsection (c-5) have the burden of
16 proof on eligibility and must provide all information
17 required. The Director may not consider granting expedited
18 relief until the proof and information is received.

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

23 (c-10) (1) An applicant, who is denied, revoked, or has
24 his or her Firearm Owner's Identification Card seized under
25 subsection (e) of Section 8 of this Act based upon a
26 determination of a developmental disability or an intellectual

1 disability may apply to the Director of State Police
2 requesting relief.

3 (2) The Director shall act on the request for relief
4 within 60 business days of receipt of written certification,
5 in the form prescribed by the Director, from a physician or
6 clinical psychologist, or qualified examiner, that the
7 aggrieved party's developmental disability or intellectual
8 disability condition is determined by a physician, clinical
9 psychologist, or qualified to be mild. If a fact-finding
10 conference is scheduled to obtain additional information
11 concerning the circumstances of the denial or revocation, the
12 60 business days the Director has to act shall be tolled until
13 the completion of the fact-finding conference.

14 (3) The Director may grant relief if the aggrieved party's
15 developmental disability or intellectual disability is mild as
16 determined by a physician, clinical psychologist, or qualified
17 examiner and it is established by the applicant to the
18 Director's satisfaction that:

19 (A) granting relief would not be contrary to the
20 public interest; and

21 (B) granting relief would not be contrary to federal
22 law.

23 (4) The Director may not grant relief if the condition is
24 determined by a physician, clinical psychologist, or qualified
25 examiner to be moderate, severe, or profound.

26 (5) The changes made to this Section by this amendatory

1 Act of the 99th General Assembly apply to requests for relief
2 pending on or before the effective date of this amendatory
3 Act, except that the 60-day period for the Director to act on
4 requests pending before the effective date shall begin on the
5 effective date of this amendatory Act.

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

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

20 (f) Any person who is subject to the disabilities of 18
21 U.S.C. 922(d)(4) and 922(g)(4) of the federal Gun Control Act
22 of 1968 because of an adjudication or commitment that occurred
23 under the laws of this State or who was determined to be
24 subject to the provisions of subsections (e), (f), or (g) of
25 Section 8 of this Act may apply to the Department of State
26 Police requesting relief from that prohibition. The Director

1 shall grant the relief if it is established by a preponderance
2 of the evidence that the person will not be likely to act in a
3 manner dangerous to public safety and that granting relief
4 would not be contrary to the public interest. In making this
5 determination, the Director shall receive evidence concerning
6 (i) the circumstances regarding the firearms disabilities from
7 which relief is sought; (ii) the petitioner's mental health
8 and criminal history records, if any; (iii) the petitioner's
9 reputation, developed at a minimum through character witness
10 statements, testimony, or other character evidence; and (iv)
11 changes in the petitioner's condition or circumstances since
12 the disqualifying events relevant to the relief sought. If
13 relief is granted under this subsection or by order of a court
14 under this Section, the Director shall as soon as practicable
15 but in no case later than 15 business days, update, correct,
16 modify, or remove the person's record in any database that the
17 Department of State Police makes available to the National
18 Instant Criminal Background Check System and notify the United
19 States Attorney General that the basis for the record being
20 made available no longer applies. The Department of State
21 Police shall adopt rules for the administration of this
22 Section.

23 (Source: P.A. 98-63, eff. 7-9-13; 99-29, eff. 7-10-15; 99-78,
24 eff. 7-20-15.)