

HB3168



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3168

Introduced 2/19/2021, by Rep. Maura Hirschauer

SYNOPSIS AS INTRODUCED:

430 ILCS 65/8

from Ch. 38, par. 83-8

Amends the Firearm Owners Identification Card Act. Provides that the Director of the Illinois State Police shall revoke and the Illinois State Police shall seize the Firearm Owner's Identification Card of a person against whom has been issued: (1) an order of protection; (2) a civil no contact order; or a (3) a stalking no contact order.

LRB102 16915 RLC 22327 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

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 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) This subsection (b) applies through the 180th day
17 following the effective date of this amendatory Act of the
18 101st General Assembly. A person under 21 years of age who
19 does not have the written consent of his parent or
20 guardian to acquire and possess firearms and firearm
21 ammunition, or whose parent or guardian has revoked such
22 written consent, or where such parent or guardian does not
23 qualify to have a Firearm Owner's Identification Card;

1 (b-5) This subsection (b-5) applies on and after the
2 181st day following the effective date of this amendatory
3 Act of the 101st General Assembly. A person under 21 years
4 of age who is not an active duty member of the United
5 States Armed Forces and does not have the written consent
6 of his or her parent or guardian to acquire and possess
7 firearms and firearm ammunition, or whose parent or
8 guardian has revoked such written consent, or where such
9 parent or guardian does not qualify to have a Firearm
10 Owner's Identification Card;

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

13 (d) A person addicted to narcotics;

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

1 (f) A person whose mental condition is of such a
2 nature that it poses a clear and present danger to the
3 applicant, 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
15 if 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
4 friendly foreign government entering the United States
5 on official business; or

6 (5) one who has received a waiver from the
7 Attorney General of the United States pursuant to 18
8 U.S.C. 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
22 right to have an offense described in this paragraph (l)
23 tried by a jury, and by guilty plea or otherwise, results
24 in a conviction for an offense in which a domestic
25 relationship is not a required element of the offense but
26 in which a determination of the applicability of 18 U.S.C.

1 922(g)(9) is made under Section 112A-11.1 of the Code of
2 Criminal Procedure of 1963, an entry by the court of a
3 judgment of conviction for that offense shall be grounds
4 for denying an application for and for revoking and
5 seizing a Firearm Owner's Identification Card previously
6 issued to the 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
25 developmental 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
5 subsection (a) of Section 4 of this Act because he or she
6 was a 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
14 he 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
22 been restored through administrative or judicial action
23 under Section 10 or 11 of this Act.

24 The Director of the Illinois State Police shall revoke and
25 the Illinois State Police shall seize the Firearm Owner's
26 Identification Card of a person against whom has been issued:

- 1 (1) an order of protection;
- 2 (2) a civil no contact order; or
- 3 (3) a stalking no contact order.

4 Upon revocation of a person's Firearm Owner's
5 Identification Card, the Department of State Police shall
6 provide notice to the person and the person shall comply with
7 Section 9.5 of this Act.

8 (Source: P.A. 101-80, eff. 7-12-19.)