

# HB3538



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB3538

Introduced 2/22/2021, by Rep. Maura Hirschauer

#### 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. Eliminates provisions that permit a person under 21 years of age who is not an active duty member of the United States Armed Forces to obtain a Firearm Owner's Identification Card with parental consent.

LRB102 16916 RLC 22328 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 Sections 4 and 8 as follows:

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

7 Sec. 4. Application for Firearm Owner's Identification  
8 Cards.

9 (a) Each applicant for a Firearm Owner's Identification  
10 Card must:

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

16 (2) Submit evidence to the Department of State Police  
17 that:

18 (i) (Blank); ~~This subparagraph (i) applies through~~  
19 ~~the 180th day following the effective date of this~~  
20 ~~amendatory Act of the 101st General Assembly. He or~~  
21 ~~she is 21 years of age or over, or if he or she is~~  
22 ~~under 21 years of age that he or she has the written~~  
23 ~~consent of his or her parent or legal guardian to~~

1 ~~possess and acquire firearms and firearm ammunition~~  
2 ~~and that he or she has never been convicted of a~~  
3 ~~misdemeanor other than a traffic offense or adjudged~~  
4 ~~delinquent, provided, however, that such parent or~~  
5 ~~legal guardian is not an individual prohibited from~~  
6 ~~having a Firearm Owner's Identification Card and files~~  
7 ~~an affidavit with the Department as prescribed by the~~  
8 ~~Department stating that he or she is not an individual~~  
9 ~~prohibited from having a Card;~~

10 (i-5) ~~This subparagraph (i 5) applies on and after~~  
11 ~~the 181st day following the effective date of this~~  
12 ~~amendatory Act of the 101st General Assembly. He or~~  
13 ~~she is 21 years of age or over, or if he or she is~~  
14 ~~under 21 years of age that he or she has never been~~  
15 ~~convicted of a misdemeanor other than a traffic~~  
16 ~~offense or adjudged delinquent and is an active duty~~  
17 ~~member of the United States Armed Forces; provided,~~  
18 ~~however that or has the written consent of his or her~~  
19 ~~parent or legal guardian to possess and acquire~~  
20 ~~firearms and firearm ammunition, provided, however,~~  
21 ~~that such parent or legal guardian is not an~~  
22 ~~individual prohibited from having a Firearm Owner's~~  
23 ~~Identification Card and files an affidavit with the~~  
24 ~~Department as prescribed by the Department stating~~  
25 ~~that he or she is not an individual prohibited from~~  
26 ~~having a Card or the active duty member of the United~~

1 States Armed Forces under 21 years of age annually  
2 submits proof to the Department of State Police, in a  
3 manner prescribed by the Department;

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

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

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

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

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

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

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

25 (ix) He or she has not been convicted of domestic  
26 battery, aggravated domestic battery, or a

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

15 (x) (Blank);

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

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

25 (2) an official representative of a foreign  
26 government who is:

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

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

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

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

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

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

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

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

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

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

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

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

21          (a-5) Each applicant for a Firearm Owner's Identification  
22          Card who is over the age of 18 shall furnish to the Department  
23          of State Police either his or her Illinois driver's license  
24          number or Illinois Identification Card number, except as  
25          provided in subsection (a-10).

26          (a-10) Each applicant for a Firearm Owner's Identification

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

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

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

24 (b) Each application form shall include the following  
25 statement printed in bold type: "Warning: Entering false  
26 information on an application for a Firearm Owner's

1 Identification Card is punishable as a Class 2 felony in  
2 accordance with subsection (d-5) of Section 14 of the Firearm  
3 Owners Identification Card Act.".

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

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

9 (430 ILCS 65/8) (from Ch. 38, par. 83-8)

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

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

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

1 ~~qualify to have a Firearm Owner's Identification Card;~~

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

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

14 (d) A person addicted to narcotics;

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

1 officer seeks mental health treatment;

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

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

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

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

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

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

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

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

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

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

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

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

10          (j) (Blank);

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

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

1 in which a determination of the applicability of 18 U.S.C.  
2 922(g) (9) is made under Section 112A-11.1 of the Code of  
3 Criminal Procedure of 1963, an entry by the court of a  
4 judgment of conviction for that offense shall be grounds  
5 for denying an application for and for revoking and  
6 seizing a Firearm Owner's Identification Card previously  
7 issued to the person under this Act;

8 (m) (Blank);

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

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

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

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

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

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

1           (t) A person involuntarily admitted into a mental  
2 health facility; or

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

25           Upon revocation of a person's Firearm Owner's  
26 Identification Card, the Department of State Police shall

1 provide notice to the person and the person shall comply with  
2 Section 9.5 of this Act.

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