

SB1922



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB1922

Introduced 2/26/2021, by Sen. Rachelle Crowe

SYNOPSIS AS INTRODUCED:

430 ILCS 65/10

from Ch. 38, par. 83-10

Amends the Firearm Owners Identification Card Act. Provides that notwithstanding any prohibitions on granting relief from obtaining a Firearm Owner's Identification Card because of federal law, the Director of the Illinois State Police, or the circuit court for various violations, may grant relief when the federal prohibition on possession of firearms is predicated solely on a provision of the Criminal Code of 2012, including, but not limited to, possession of a firearm by a felon, that would no longer apply to the applicant upon granting of relief under the appeals provisions of the Act. Effective immediately.

LRB102 15406 RLC 20769 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.

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

16 (c) Any person prohibited from possessing a firearm under
17 Sections 24-1.1 or 24-3.1 of the Criminal Code of 2012 or
18 acquiring a Firearm Owner's Identification Card under Section
19 8 of this Act may apply to the Director of State Police or
20 petition the circuit court in the county where the petitioner
21 resides, whichever is applicable in accordance with subsection
22 (a) of this Section, requesting relief from such prohibition
23 and the Director or court may grant such relief if it is
24 established by the applicant to the court's or Director's
25 satisfaction that:

26 (0.05) when in the circuit court, the State's Attorney

1 has been served with a written copy of the petition at
2 least 30 days before any such hearing in the circuit court
3 and at the hearing the State's Attorney was afforded an
4 opportunity to present evidence and object to the
5 petition;

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

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

16 (3) granting relief would not be contrary to the
17 public interest; and

18 (4) granting relief would not be contrary to federal
19 law. Notwithstanding any prohibitions on such relief in
20 this paragraph (4), the Director, or circuit court as
21 provided in subsection (a), may grant relief when the
22 federal prohibition on possession of firearms is
23 predicated solely on a provision of the Criminal Code of
24 2012, including, but not limited to, subsection (a) of
25 Section 24-1.1 of that Code, that would no longer apply to
26 the applicant upon granting of relief under this Section.

1 (c-5) (1) An active law enforcement officer employed by a
2 unit of government, who is denied, revoked, or has his or her
3 Firearm Owner's Identification Card seized under subsection
4 (e) of Section 8 of this Act may apply to the Director of State
5 Police requesting relief if the officer did not act in a manner
6 threatening to the officer, another person, or the public as
7 determined by the treating clinical psychologist or physician,
8 and as a result of his or her work is referred by the employer
9 for or voluntarily seeks mental health evaluation or treatment
10 by a licensed clinical psychologist, psychiatrist, or
11 qualified examiner, and:

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

18 (B) the officer has not left the mental institution
19 against medical advice.

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

1 (A) a notarized statement from the officer in the form
2 prescribed by the Director detailing the circumstances
3 that led to the hospitalization;

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

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

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

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

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

26 (c-10) (1) An applicant, who is denied, revoked, or has

1 his or her Firearm Owner's Identification Card seized under
2 subsection (e) of Section 8 of this Act based upon a
3 determination of a developmental disability or an intellectual
4 disability may apply to the Director of State Police
5 requesting relief.

6 (2) The Director shall act on the request for relief
7 within 60 business days of receipt of written certification,
8 in the form prescribed by the Director, from a physician or
9 clinical psychologist, or qualified examiner, that the
10 aggrieved party's developmental disability or intellectual
11 disability condition is determined by a physician, clinical
12 psychologist, or qualified to be mild. If a fact-finding
13 conference is scheduled to obtain additional information
14 concerning the circumstances of the denial or revocation, the
15 60 business days the Director has to act shall be tolled until
16 the completion of the fact-finding conference.

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

22 (A) granting relief would not be contrary to the
23 public interest; and

24 (B) granting relief would not be contrary to federal
25 law.

26 (4) The Director may not grant relief if the condition is

1 determined by a physician, clinical psychologist, or qualified
2 examiner to be moderate, severe, or profound.

3 (5) The changes made to this Section by this amendatory
4 Act of the 99th General Assembly apply to requests for relief
5 pending on or before the effective date of this amendatory
6 Act, except that the 60-day period for the Director to act on
7 requests pending before the effective date shall begin on the
8 effective date of this amendatory Act.

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

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

23 (f) Any person who is subject to the disabilities of 18
24 U.S.C. 922(d)(4) and 922(g)(4) of the federal Gun Control Act
25 of 1968 because of an adjudication or commitment that occurred
26 under the laws of this State or who was determined to be

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

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

1 eff. 7-20-15.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.