



Rep. Lance Yednock

**Filed: 5/7/2021**

10200SB2249ham001

LRB102 17035 KMF 25956 a

1 AMENDMENT TO SENATE BILL 2249

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2249 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Firearm Owners Identification Card Act is  
5 amended by changing Sections 8 and 10 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

1 following the effective date of this amendatory Act of the  
2 101st General Assembly. A person under 21 years of age who  
3 does not have the written consent of his parent or  
4 guardian to acquire and possess firearms and firearm  
5 ammunition, or whose parent or guardian has revoked such  
6 written consent, or where such parent or guardian does not  
7 qualify to have a Firearm Owner's Identification Card;

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

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

20 (d) A person addicted to narcotics;

21 (e) A person who has been a patient of a mental health  
22 facility within the past 5 years or a person who has been a  
23 patient in a mental health facility more than 5 years ago  
24 who has not received the certification required under  
25 subsection (u) of this Section. An active law enforcement  
26 officer employed by a unit of government or a Department

1       of Corrections employee authorized to possess firearms who  
2       is denied, revoked, or has his or her Firearm Owner's  
3       Identification Card seized under this subsection (e) may  
4       obtain relief as described in subsection (c-5) of Section  
5       10 of this Act if the officer or employee did not act in a  
6       manner threatening to the officer or employee, another  
7       person, or the public as determined by the treating  
8       clinical psychologist or physician, and the officer or  
9       employee seeks mental health treatment;

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

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

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

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

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

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

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

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

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

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

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

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

18           (j) (Blank);

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

24           (l) A person who has been convicted of domestic  
25 battery, aggravated domestic battery, or a substantially  
26 similar offense in another jurisdiction committed before,

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

16 (m) (Blank);

17 (n) A person who is prohibited from acquiring or  
18 possessing firearms or firearm ammunition by any Illinois  
19 State statute or by federal law;

20 (o) A minor subject to a petition filed under Section  
21 5-520 of the Juvenile Court Act of 1987 alleging that the  
22 minor is a delinquent minor for the commission of an  
23 offense that if committed by an adult would be a felony;

24 (p) An adult who had been adjudicated a delinquent  
25 minor under the Juvenile Court Act of 1987 for the  
26 commission of an offense that if committed by an adult

1 would be a felony;

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

5 (r) A person who has been adjudicated as a person with  
6 a mental disability;

7 (s) A person who has been found to have a  
8 developmental disability;

9 (t) A person involuntarily admitted into a mental  
10 health facility; or

11 (u) A person who has had his or her Firearm Owner's  
12 Identification Card revoked or denied under subsection (e)  
13 of this Section or item (iv) of paragraph (2) of  
14 subsection (a) of Section 4 of this Act because he or she  
15 was a patient in a mental health facility as provided in  
16 subsection (e) of this Section, shall not be permitted to  
17 obtain a Firearm Owner's Identification Card, after the  
18 5-year period has lapsed, unless he or she has received a  
19 mental health evaluation by a physician, clinical  
20 psychologist, or qualified examiner as those terms are  
21 defined in the Mental Health and Developmental  
22 Disabilities Code, and has received a certification that  
23 he or she is not a clear and present danger to himself,  
24 herself, or others. The physician, clinical psychologist,  
25 or qualified examiner making the certification and his or  
26 her employer shall not be held criminally, civilly, or

1 professionally liable for making or not making the  
2 certification required under this subsection, except for  
3 willful or wanton misconduct. This subsection does not  
4 apply to a person whose firearm possession rights have  
5 been restored through administrative or judicial action  
6 under Section 10 or 11 of this Act.

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

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

12 (430 ILCS 65/10) (from Ch. 38, par. 83-10)

13 Sec. 10. Appeal to director; hearing; relief from firearm  
14 prohibitions.

15 (a) Whenever an application for a Firearm Owner's  
16 Identification Card is denied, whenever the Department fails  
17 to act on an application within 30 days of its receipt, or  
18 whenever such a Card is revoked or seized as provided for in  
19 Section 8 of this Act, the aggrieved party may appeal to the  
20 Director of State Police for a hearing upon such denial,  
21 revocation or seizure, unless the denial, revocation, or  
22 seizure was based upon a forcible felony, stalking, aggravated  
23 stalking, domestic battery, any violation of the Illinois  
24 Controlled Substances Act, the Methamphetamine Control and  
25 Community Protection Act, or the Cannabis Control Act that is

1 classified as a Class 2 or greater felony, any felony  
2 violation of Article 24 of the Criminal Code of 1961 or the  
3 Criminal Code of 2012, or any adjudication as a delinquent  
4 minor for the commission of an offense that if committed by an  
5 adult would be a felony, in which case the aggrieved party may  
6 petition the circuit court in writing in the county of his or  
7 her residence for a hearing upon such denial, revocation, or  
8 seizure.

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 or a Department of Corrections employee  
26 authorized to possess firearms 7 who is denied, revoked, or

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

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

17 (B) the officer or employee has not left the mental  
18 institution against medical advice.

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

1 (A) a notarized statement from the officer or employee  
2 in the form prescribed by the Director detailing the  
3 circumstances 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 and employees eligible for the expedited  
18 relief in paragraph (2) of this subsection (c-5) have the  
19 burden of proof on eligibility and must provide all  
20 information required. The Director may not consider granting  
21 expedited 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 10. The Unified Code of Corrections is amended by  
3 adding Section 3-2-13 as follows:

4 (730 ILCS 5/3-2-13 new)

5 Sec. 3-2-13. Possession of a Firearm Owner's  
6 Identification Card. The Department of Corrections shall not  
7 make possession of a Firearm Owner's Identification Card a  
8 condition of continued employment as a Department employee  
9 authorized to possess firearms if the employee's Firearm  
10 Owner's Identification Card is revoked or seized because the  
11 employee has been a patient of a mental health facility and the  
12 employee has not been determined to pose a clear and present  
13 danger to himself, herself, or others as determined by a  
14 physician, clinical psychologist, or qualified examiner.  
15 Nothing in this Section shall otherwise impair the  
16 Department's ability to determine an employee's fitness for  
17 duty. A collective bargaining agreement already in effect on  
18 this issue on the effective date of this amendatory Act of the  
19 102nd General Assembly cannot be modified, but on or after the  
20 effective date of this amendatory Act of the 102nd General  
21 Assembly, the Department cannot require a Firearm Owner's  
22 Identification Card as a condition of continued employment in  
23 a collective bargaining agreement. The Department shall  
24 document if and why an employee has been determined to pose a

1 clear and present danger. In this Section, "mental health  
2 facility" and "qualified examiner" have the meanings provided  
3 in the Mental Health and Developmental Disabilities Code."