



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB1967

Introduced 2/9/2023, by Sen. Ann Gillespie

SYNOPSIS AS INTRODUCED:

405 ILCS 5/6-103.3

430 ILCS 65/8.1

from Ch. 38, par. 83-8.1

430 ILCS 67/5

430 ILCS 67/10

430 ILCS 67/50

430 ILCS 67/60

430 ILCS 67/63 new

Amends the Mental Health and Developmental Disabilities Code to require a physician, clinical psychologist, or qualified examiner to determine whether to file an action under the Firearms Restraining Order Act under specified circumstances. Amends the Firearm Owners Identification Card Act and the Firearms Restraining Order Act. Subject to appropriation, establishes the Office of Firearms Restraining Order Coordination within the Department of Human Services. Provides that if any Firearm Owner's Identification Card of the respondent is surrendered, the period of surrender shall be for the duration of the order of protection. Makes conforming changes. Effective immediately.

LRB103 26409 RLC 52772 b

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 Mental Health and Developmental
5 Disabilities Code is amended by changing Section 6-103.3 as
6 follows:

7 (405 ILCS 5/6-103.3)

8 Sec. 6-103.3. Clear and present danger; notice.

9 (a) If a person is determined to pose a clear and present
10 danger to himself, herself, or to others by a physician,
11 clinical psychologist, or qualified examiner, whether employed
12 by the State, by any public or private mental health facility
13 or part thereof, or by a law enforcement official or a school
14 administrator, then the physician, clinical psychologist,
15 qualified examiner shall notify the Department of Human
16 Services and a law enforcement official or school
17 administrator shall notify the Illinois State Police, within
18 24 hours of making the determination that the person poses a
19 clear and present danger. The Department of Human Services
20 shall immediately update its records and information relating
21 to mental health and developmental disabilities, and if
22 appropriate, shall notify the Illinois State Police in a form
23 and manner prescribed by the Illinois State Police. If a

1 person has been determined to pose a clear and present danger
2 under this subsection, the physician, clinical psychologist,
3 or qualified examiner shall determine whether to file an
4 action under the Firearms Restraining Order Act naming that
5 person as the respondent.

6 (b) Information disclosed under this Section shall remain
7 privileged and confidential, and shall not be redisclosed,
8 except as required under subsection (e) of Section 3.1 of the
9 Firearm Owners Identification Card Act or for the purpose of
10 an action under the Firearms Restraining Order Act, nor used
11 for any other purpose. The method of providing this
12 information shall guarantee that the information is not
13 released beyond that which is necessary for the purposes
14 provided by ~~purpose of~~ this Section and shall be provided by
15 rule by the Department of Human Services. The identity of the
16 person reporting under this Section shall not be disclosed to
17 the subject of the report. The physician, clinical
18 psychologist, qualified examiner, law enforcement official, or
19 school administrator making the determination and his or her
20 employer shall not be held criminally, civilly, or
21 professionally liable for making or not making the
22 notification required under this Section, except for willful
23 or wanton misconduct. This Section does not apply to a law
24 enforcement official, if making the notification under this
25 Section will interfere with an ongoing or pending criminal
26 investigation.

1 (c) For the purposes of this Section:

2 "Clear and present danger" has the meaning ascribed to
3 it in Section 1.1 of the Firearm Owners Identification
4 Card Act.

5 "Determined to pose a clear and present danger to
6 himself, herself, or to others by a physician, clinical
7 psychologist, or qualified examiner" means in the
8 professional opinion of the physician, clinical
9 psychologist, or qualified examiner, a person poses a
10 clear and present danger.

11 "School administrator" means the person required to
12 report under the School Administrator Reporting of Mental
13 Health Clear and Present Danger Determinations Law.

14 (Source: P.A. 102-538, eff. 8-20-21.)

15 Section 10. The Firearm Owners Identification Card Act is
16 amended by changing Section 8.1 as follows:

17 (430 ILCS 65/8.1) (from Ch. 38, par. 83-8.1)

18 Sec. 8.1. Notifications to the Illinois State Police.

19 (a) The Circuit Clerk shall, in the form and manner
20 required by the Supreme Court, notify the Illinois State
21 Police of all final dispositions of cases for which the
22 Department has received information reported to it under
23 Sections 2.1 and 2.2 of the Criminal Identification Act.

24 (b) Upon adjudication of any individual as a person with a

1 mental disability as defined in Section 1.1 of this Act or a
2 finding that a person has been involuntarily admitted, the
3 court shall direct the circuit court clerk to immediately
4 notify the Illinois State Police, Firearm Owner's
5 Identification (FOID) department, and shall forward a copy of
6 the court order to the Department.

7 (b-1) Beginning July 1, 2016, and each July 1 and December
8 30 of every year thereafter, the circuit court clerk shall, in
9 the form and manner prescribed by the Illinois State Police,
10 notify the Illinois State Police, Firearm Owner's
11 Identification (FOID) department if the court has not directed
12 the circuit court clerk to notify the Illinois State Police,
13 Firearm Owner's Identification (FOID) department under
14 subsection (b) of this Section, within the preceding 6 months,
15 because no person has been adjudicated as a person with a
16 mental disability by the court as defined in Section 1.1 of
17 this Act or if no person has been involuntarily admitted. The
18 Supreme Court may adopt any orders or rules necessary to
19 identify the persons who shall be reported to the Illinois
20 State Police under subsection (b), or any other orders or
21 rules necessary to implement the requirements of this Act.

22 (c) The Department of Human Services shall, in the form
23 and manner prescribed by the Illinois State Police, report all
24 information collected under subsection (b) of Section 12 of
25 the Mental Health and Developmental Disabilities
26 Confidentiality Act for the purpose of determining whether a

1 person who may be or may have been a patient in a mental health
2 facility is disqualified under State or federal law from
3 receiving or retaining a Firearm Owner's Identification Card,
4 or purchasing a weapon.

5 (d) If a person is determined to pose a clear and present
6 danger to himself, herself, or to others:

7 (1) by a physician, clinical psychologist, or
8 qualified examiner, or is determined to have a
9 developmental disability by a physician, clinical
10 psychologist, or qualified examiner, whether employed by
11 the State or privately, then the physician, clinical
12 psychologist, or qualified examiner shall, within 24 hours
13 of making the determination, notify the Department of
14 Human Services that the person poses a clear and present
15 danger or has a developmental disability; or

16 (2) by a law enforcement official or school
17 administrator, then the law enforcement official or school
18 administrator shall, within 24 hours of making the
19 determination, notify the Illinois State Police that the
20 person poses a clear and present danger.

21 The Department of Human Services shall immediately update
22 its records and information relating to mental health and
23 developmental disabilities, and if appropriate, shall notify
24 the Illinois State Police in a form and manner prescribed by
25 the Illinois State Police. When the Illinois State Police is
26 notified pursuant to this subsection that a person has been

1 determined to pose a clear and present danger, the ~~The~~
2 Illinois State Police shall determine whether to revoke the
3 person's Firearm Owner's Identification Card under Section 8
4 of this Act. The person reporting or alleging under this
5 subsection that another person poses a clear and present
6 danger to himself, herself, or to others shall determine
7 whether to file an action under the Firearms Restraining Order
8 Act naming that person as the respondent. Any information
9 disclosed under this subsection shall remain privileged and
10 confidential, and shall not be redisclosed, except as required
11 under subsection (e) of Section 3.1 of this Act or for the
12 purpose of an action under the Firearms Restraining Order Act,
13 nor used for any other purpose. The method of providing this
14 information shall guarantee that the information is not
15 released beyond what is necessary for the purposes provided by
16 ~~purpose of~~ this Section and shall be provided by rule by the
17 Department of Human Services. The identity of the person
18 reporting under this Section shall not be disclosed to the
19 subject of the report. The physician, clinical psychologist,
20 qualified examiner, law enforcement official, or school
21 administrator making the determination and his or her employer
22 shall not be held criminally, civilly, or professionally
23 liable for making or not making the notification required
24 under this subsection, except for willful or wanton
25 misconduct.

26 (e) The Illinois State Police shall adopt rules to

1 implement this Section.

2 (Source: P.A. 102-538, eff. 8-20-21.)

3 Section 15. The Firearms Restraining Order Act is amended
4 by changing Sections 5, 10, 50, and 60 and by adding Section 63
5 as follows:

6 (430 ILCS 67/5)

7 Sec. 5. Definitions. As used in this Act:

8 "Family member of the respondent" means a spouse, former
9 spouse, person with whom the respondent has a minor child in
10 common, parent, child, or step-child of the respondent, any
11 other person related by blood or present marriage to the
12 respondent, or a person who shares a common dwelling with the
13 respondent.

14 "Firearms restraining order" means an order issued by the
15 court, prohibiting and enjoining a named person from having in
16 his or her custody or control, purchasing, possessing, or
17 receiving any firearms or ammunition, ~~or removing~~ firearm
18 parts that could be assembled to make an operable firearm.

19 "Intimate partner" means a spouse, former spouse, a person
20 with whom the respondent has or allegedly has a child in
21 common, or a person with whom the respondent has or has had a
22 dating or engagement relationship.

23 "Petitioner" means:

24 (1) a family member of the respondent as defined in

1 this Act; ~~or~~

2 (2) a law enforcement officer who files a petition
3 alleging that the respondent poses a danger of causing
4 personal injury to himself, herself, or another by having
5 in his or her custody or control, purchasing, possessing,
6 or receiving a firearm, ammunition, or firearm parts that
7 could be assembled to make an operable firearm ~~or removing~~
8 ~~firearm parts that could be assembled to make an operable~~
9 ~~firearm; or -~~

10 (3) a physician, psychologist, clinical social worker,
11 licensed clinical professional counselor, clinical nurse
12 specialist in psychiatric and mental health nursing,
13 psychiatric nurse practitioner, licensed clinical marriage
14 or family therapist, or health officer or designee of a
15 health officer who has examined a respondent.

16 "Respondent" means the person alleged in the petition to
17 pose a danger of causing personal injury to himself, herself,
18 or another by having in his or her custody or control,
19 purchasing, possessing, or receiving a firearm, ammunition, or
20 firearm parts that could be assembled to make an operable
21 firearm ~~or removing firearm parts that could be assembled to~~
22 ~~make an operable firearm.~~

23 (Source: P.A. 101-81, eff. 7-12-19; 102-345, eff. 6-1-22.)

24 (430 ILCS 67/10)

25 Sec. 10. Commencement of action; procedure.

1 (a) An action for a firearms restraining order is
2 commenced by filing a verified petition for a firearms
3 restraining order in any circuit court.

4 (b) A petition for a firearms restraining order may be
5 filed in: (1) any county where the respondent resides or (2)
6 any county where an incident occurred that involved the
7 respondent posing an immediate and present danger of causing
8 personal injury to the respondent or another by having in his
9 or her custody or control, or purchasing, possessing, or
10 receiving, a firearm, ammunition, or firearm parts that could
11 be assembled to make an operable firearm. A firearms
12 restraining order may be issued against any respondent,
13 including, but not limited to, a respondent who, at the time of
14 the filing of the petition for a firearms restraining order,
15 is under the age of 21, does not have a valid Firearm Owner's
16 Identification Card, or does not hold or have a right to
17 possess a firearm.

18 (c) No fee shall be charged by the clerk for filing,
19 amending, vacating, certifying, printing, or photocopying
20 petitions or orders; or for issuing alias summons; or for any
21 related filing service. No fee shall be charged by the sheriff
22 or other law enforcement for service by the sheriff or other
23 law enforcement of a petition, rule, motion, or order in an
24 action commenced under this Section.

25 (d) The court shall provide, through the office of the
26 clerk of the court, simplified forms and clerical assistance

1 to help with the ~~writing and~~ filing of a petition under this
2 Section by any person not represented by counsel. In addition,
3 that assistance may be provided by the State's Attorney.

4 (Source: P.A. 101-81, eff. 7-12-19; 102-345, eff. 6-1-22.)

5 (430 ILCS 67/50)

6 Sec. 50. Notice of orders.

7 (a) Entry and issuance. Upon issuance of any firearms
8 restraining order, the clerk shall immediately, or on the next
9 court day if an emergency firearms restraining order is issued
10 in accordance with Section 35 of this Act (emergency firearms
11 restraining order): (i) enter the order on the record and file
12 it in accordance with the circuit court procedures and (ii)
13 provide a file-stamped ~~file-stamped~~ copy of the order to the
14 respondent, if present, and to the petitioner.

15 (b) Filing with sheriff. The clerk of the issuing judge
16 shall, or the petitioner may, on the same day that a firearms
17 restraining order is issued, file a file-stamped ~~certified~~
18 copy of that order with the sheriff or other law enforcement
19 officials charged with maintaining Illinois State Police
20 records or charged with serving the order upon the respondent.
21 If the order was issued in accordance with Section 35 of this
22 Act (emergency firearms restraining order), the clerk shall,
23 on the next court day, file a file-stamped ~~certified~~ copy of
24 the order with the sheriff or other law enforcement officials
25 charged with maintaining Illinois State Police records.

1 (c) Service by sheriff. Unless the respondent was present
2 in court when the order was issued, the sheriff or other law
3 enforcement official shall promptly serve that order upon the
4 respondent and file proof of the service, in the manner
5 provided for service of process in civil proceedings. Instead
6 of serving the order upon the respondent, however, the
7 sheriff, other law enforcement official, or other persons
8 defined in Section 112A-22.10 of the Code of Criminal
9 Procedure of 1963 may serve the respondent with a short form
10 notification as provided in that Section. If process has not
11 yet been served upon the respondent, it shall be served with
12 the order or short form notification if the service is made by
13 the sheriff, or other law enforcement official.

14 (d) Any order renewing or terminating any firearms
15 restraining order shall be promptly recorded, issued, and
16 served as provided in this Section.

17 (Source: P.A. 101-81, eff. 7-12-19; 102-538, eff. 8-20-21.)

18 (430 ILCS 67/60)

19 Sec. 60. Filing of a firearms restraining order issued by
20 another state.

21 (a) A person who has sought a firearms restraining order
22 or similar order to temporarily remove firearms issued by the
23 court of another state, tribe, or United States territory may
24 file a file-stamped ~~certified~~ copy of the firearms restraining
25 order with the clerk of the court in a judicial circuit in

1 which the person believes that enforcement may be necessary.

2 (b) The clerk shall:

3 (1) treat the foreign firearms restraining order in
4 the same manner as a judgment of the circuit court for any
5 county of this State in accordance with the provisions of
6 the Uniform Enforcement of Foreign Judgments Act, except
7 that the clerk shall not mail notice of the filing of the
8 foreign order to the respondent named in the order; and

9 (2) on the same day that a foreign firearms
10 restraining order is filed, file a file-stamped ~~certified~~
11 copy of that order with the sheriff in the county in which
12 it is filed or other law enforcement officials charged
13 with maintaining Illinois State Police records as set
14 forth in Section 55 of this Act.

15 (c) Neither residence in this State nor filing of a
16 foreign firearms restraining order shall be required for
17 enforcement of the order by this State. Failure to file the
18 foreign order shall not be an impediment to its treatment in
19 all respects as an Illinois firearms restraining order.

20 (d) The clerk shall not charge a fee to file a foreign
21 order of protection under this Section.

22 (Source: P.A. 102-538, eff. 8-20-21.)

23 (430 ILCS 67/63 new)

24 Sec. 63. Office of Firearms Restraining Order
25 Coordination.

1 (a) Subject to appropriation from State and federal funds,
2 there is established within the Department of Human Services
3 the Office of Firearms Restraining Order Coordination. The
4 Office shall consist of a Director and 5 Coordinators,
5 appointed by the Secretary of Human Services. One Coordinator
6 shall be selected from each of the 5 Illinois Appellate Court
7 Districts and shall serve as a liaison between petitioners,
8 State's Attorney offices, and the courts within that Appellate
9 District in matters concerning firearms restraining orders.
10 The Department of Human Services shall adopt any rules it
11 deems necessary to implement this Section.

12 (b) Edward Byrne Memorial Justice Assistance Grant (JAG)
13 program funds received by the State of Illinois from the
14 federal government may be used to hire county Firearms
15 Restraining Order coordinators, train law enforcement and
16 other collaborators about implementing this Act, and fund
17 other methods of implementation of this Act.

18 Section 97. Severability. The provisions of this Act are
19 severable under Section 1.31 of the Statute on Statutes.

20 Section 99. Effective date. This Act takes effect upon
21 becoming law.