



Sen. Dan Kotowski

Filed: 5/17/2007

09500HB1462sam002

LRB095 08484 RLC 36536 a

1 AMENDMENT TO HOUSE BILL 1462

2 AMENDMENT NO. _____. Amend House Bill 1462, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Firearm Owners Identification Card Act is
6 amended by changing Section 3.1 as follows:

7 (430 ILCS 65/3.1) (from Ch. 38, par. 83-3.1)

8 Sec. 3.1. Dial up system.

9 (a) The Department of State Police shall provide a dial up
10 telephone system or utilize other existing technology which
11 shall be used by any federally licensed firearm dealer, gun
12 show promoter, or gun show vendor who is to transfer a firearm,
13 stun gun, or taser under the provisions of this Act. The
14 Department of State Police may utilize existing technology
15 which allows the caller to be charged a fee not to exceed \$2.
16 Fees collected by the Department of State Police shall be

1 deposited in the State Police Services Fund and used to provide
2 the service.

3 (b) Upon receiving a request from a federally licensed
4 firearm dealer, gun show promoter, or gun show vendor, the
5 Department of State Police shall immediately approve, or within
6 the time period established by Section 24-3 of the Criminal
7 Code of 1961 regarding the delivery of firearms, stun guns, and
8 tasers notify the inquiring dealer, gun show promoter, or gun
9 show vendor of any objection that would disqualify the
10 transferee from acquiring or possessing a firearm, stun gun, or
11 taser. In conducting the inquiry, the Department of State
12 Police shall initiate and complete an automated search of its
13 criminal history record information files and those of the
14 Federal Bureau of Investigation, including the National
15 Instant Criminal Background Check System, and of the files of
16 the Department of Human Services relating to mental health and
17 developmental disabilities to obtain any felony conviction or
18 patient hospitalization information which would disqualify a
19 person from obtaining or require revocation of a currently
20 valid Firearm Owner's Identification Card.

21 (c) If receipt of a firearm would not violate Section 24-3
22 of the Criminal Code of 1961, federal law, or this Act the
23 Department of State Police shall:

24 (1) assign a unique identification number to the
25 transfer; and

26 (2) provide the licensee, gun show promoter, or gun

1 show vendor with the number.

2 (d) Approvals issued by the Department of State Police for
3 the purchase of a firearm are valid for 30 days from the date
4 of issue.

5 (e) (1) The Department of State Police must act as the
6 Illinois Point of Contact for the National Instant Criminal
7 Background Check System.

8 (2) The Department of State Police and the Department of
9 Human Services shall, in accordance with State and federal law
10 regarding confidentiality, enter into a memorandum of
11 understanding with the Federal Bureau of Investigation for the
12 purpose of implementing the National Instant Criminal
13 Background Check System in the State. The Department of State
14 Police shall report the name, date of birth, and physical
15 description of any person prohibited from possessing a firearm
16 pursuant to the Firearm Owners Identification Card Act and 18
17 USC 922(g) and (n) to the National Instant Criminal Background
18 Check System Index, Denied Persons Files.

19 (f) The Department of State Police shall promulgate rules
20 not inconsistent with this Section to implement this system.

21 (Source: P.A. 94-6, eff. 1-1-06; 94-353, eff. 7-29-05; revised
22 8-19-05.)

23 Section 10. The Mental Health and Developmental
24 Disabilities Confidentiality Act is amended by changing
25 Section 12 as follows:

1 (740 ILCS 110/12) (from Ch. 91 1/2, par. 812)

2 Sec. 12. (a) If the United States Secret Service or the
3 Department of State Police requests information from a mental
4 health or developmental disability facility, as defined in
5 Section 1-107 and 1-114 of the Mental Health and Developmental
6 Disabilities Code, relating to a specific recipient and the
7 facility director determines that disclosure of such
8 information may be necessary to protect the life of, or to
9 prevent the infliction of great bodily harm to, a public
10 official, or a person under the protection of the United States
11 Secret Service, only the following information may be
12 disclosed: the recipient's name, address, and age and the date
13 of any admission to or discharge from a facility; and any
14 information which would indicate whether or not the recipient
15 has a history of violence or presents a danger of violence to
16 the person under protection. Any information so disclosed shall
17 be used for investigative purposes only and shall not be
18 publicly disseminated. Any person participating in good faith
19 in the disclosure of such information in accordance with this
20 provision shall have immunity from any liability, civil,
21 criminal or otherwise, if such information is disclosed relying
22 upon the representation of an officer of the United States
23 Secret Service or the Department of State Police that a person
24 is under the protection of the United States Secret Service or
25 is a public official.

1 For the purpose of this subsection (a), the term "public
2 official" means the Governor, Lieutenant Governor, Attorney
3 General, Secretary of State, State Comptroller, State
4 Treasurer or member of the General Assembly. The term shall
5 also include the spouse, child or children of a public
6 official.

7 (b) The Department of Human Services (acting as successor
8 to the Department of Mental Health and Developmental
9 Disabilities) and all public or private hospitals and mental
10 health facilities as described in clause (3) of this subsection
11 (b), are required, as hereafter described in this subsection,
12 to furnish the Department of State Police only such information
13 as may be required for the sole purpose of determining whether
14 an individual who may be or may have been a patient is
15 disqualified because of that status from receiving or retaining
16 a Firearm Owner's Identification Card under subsections
17 ~~subsection~~ (e) and (f) of Section 8 of the Firearm Owners
18 Identification Card Act and 18 USC 922(g) and (n). All public
19 or private hospitals and mental health facilities shall, in the
20 form and manner required by the Department, provide such
21 information as shall be necessary for the Department to comply
22 with the reporting requirements to the Department of State
23 Police. Such information shall be furnished within 7 ~~30~~ days
24 after admission to a public or private hospital or mental
25 health facility or the provision of services to a person
26 described in clause (2) of this subsection (b). Any such

1 information disclosed under this subsection shall remain
2 privileged and confidential, and shall not be redisclosed nor
3 utilized for any other purpose. The method of requiring the
4 providing of such information shall guarantee that no
5 information is released beyond what is necessary for this
6 purpose. In addition, the information disclosed shall be
7 provided by the Department within the time period established
8 by Section 24-3 of the Criminal Code of 1961 regarding the
9 delivery of firearms. The method used shall be sufficient to
10 provide the necessary information within the prescribed time
11 period, which may include periodically providing lists to the
12 Department of Human Services or any public or private hospital
13 or mental health facility of Firearm Owner's Identification
14 Card applicants on which the Department or hospital shall
15 indicate the identities of those individuals who are to its
16 knowledge disqualified from having a Firearm Owner's
17 Identification Card for reasons described herein. The
18 Department may provide for a centralized source of information
19 for the State on this subject under its jurisdiction.

20 Any person, institution, or agency, under this Act,
21 participating in good faith in the reporting or disclosure of
22 records and communications otherwise in accordance with this
23 provision or with rules, regulations or guidelines issued by
24 the Department shall have immunity from any liability, civil,
25 criminal or otherwise, that might result by reason of the
26 action. For the purpose of any proceeding, civil or criminal,

1 arising out of a report or disclosure in accordance with this
2 provision, the good faith of any person, institution, or agency
3 so reporting or disclosing shall be presumed. The full extent
4 of the immunity provided in this subsection (b) shall apply to
5 any person, institution or agency that fails to make a report
6 or disclosure in the good faith belief that the report or
7 disclosure would violate federal regulations governing the
8 confidentiality of alcohol and drug abuse patient records
9 implementing 42 U.S.C. 290dd-3 and 290ee-3.

10 For purposes of this subsection (b) only, the following
11 terms shall have the meaning prescribed:

12 (1) "Hospital" means only that type of institution
13 which is providing full-time residential facilities and
14 treatment for in-patients and excludes institutions, such
15 as community clinics, which only provide treatment to
16 out-patients.

17 (2) "Patient" shall mean only a person who is an
18 in-patient or resident of any hospital, not an out-patient
19 or client seen solely for periodic consultation unless the
20 person's mental condition is of such a nature that it poses
21 a clear and present danger to himself or herself, any other
22 person or persons or the community. The term "mental
23 condition" is defined in subsection (f) of Section 8 of the
24 Firearm Owners Identification Card Act.

25 (3) "Mental health facility" means any public or
26 private facility that provides mental health services to

1 patients on an inpatient or outpatient basis.

2 (c) Upon the request of a peace officer who takes a person
3 into custody and transports such person to a mental health or
4 developmental disability facility pursuant to Section 3-606 or
5 4-404 of the Mental Health and Developmental Disabilities Code
6 or who transports a person from such facility, a facility
7 director shall furnish said peace officer the name, address,
8 age and name of the nearest relative of the person transported
9 to or from the mental health or developmental disability
10 facility. In no case shall the facility director disclose to
11 the peace officer any information relating to the diagnosis,
12 treatment or evaluation of the person's mental or physical
13 health.

14 For the purposes of this subsection (c), the terms "mental
15 health or developmental disability facility", "peace officer"
16 and "facility director" shall have the meanings ascribed to
17 them in the Mental Health and Developmental Disabilities Code.

18 (d) Upon the request of a peace officer or prosecuting
19 authority who is conducting a bona fide investigation of a
20 criminal offense, or attempting to apprehend a fugitive from
21 justice, a facility director may disclose whether a person is
22 present at the facility. Upon request of a peace officer or
23 prosecuting authority who has a valid forcible felony warrant
24 issued, a facility director shall disclose: (1) whether the
25 person who is the subject of the warrant is present at the
26 facility and (2) the date of that person's discharge or future

1 discharge from the facility. The requesting peace officer or
2 prosecuting authority must furnish a case number and the
3 purpose of the investigation or an outstanding arrest warrant
4 at the time of the request. Any person, institution, or agency
5 participating in good faith in disclosing such information in
6 accordance with this subsection (d) is immune from any
7 liability, civil, criminal or otherwise, that might result by
8 reason of the action.

9 (Source: P.A. 92-738, eff. 7-25-02.)".