



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB4095

by Rep. Patricia Reid Lindner

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. Provides that a person who has been adjudicated under the Mental Health and Developmental Disabilities Code as being in need of voluntary or involuntary mental health treatment within the past 5 years is ineligible for a Firearm Owner's Identification Card. Provides that the Department of State Police may have the Firearm Owner's Identification Card of such person revoked and seized. Effective immediately.

LRB095 12065 RLC 35839 b

FISCAL NOTE ACT
MAY APPLY

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. (a) Each applicant for a Firearm Owner's
8 Identification Card must:

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

14 (2) Submit evidence to the Department of State Police
15 that:

16 (i) He or she is 21 years of age or over, or if he
17 or she is under 21 years of age that he or she has the
18 written consent of his or her parent or legal guardian
19 to possess and acquire firearms and firearm ammunition
20 and that he or she has never been convicted of a
21 misdemeanor other than a traffic offense or adjudged
22 delinquent, provided, however, that such parent or
23 legal guardian is not an individual prohibited from

1 having a Firearm Owner's Identification Card and files
2 an affidavit with the Department as prescribed by the
3 Department stating that he or she is not an individual
4 prohibited from having a Card;

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

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

8 (iv) He or she has not been a patient in a mental
9 institution or he or she has not been adjudicated under
10 Chapter III of the Mental Health and Developmental
11 Disabilities Code as being in need of voluntary or
12 involuntary mental health treatment within the past 5
13 years;

14 (v) He or she is not mentally retarded;

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

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

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

26 (ix) He or she has not been convicted of domestic

1 battery or a substantially similar offense in another
2 jurisdiction committed on or after the effective date
3 of this amendatory Act of 1997;

4 (x) He or she has not been convicted within the
5 past 5 years of domestic battery or a substantially
6 similar offense in another jurisdiction committed
7 before the effective date of this amendatory Act of
8 1997;

9 (xi) He or she is not an alien who has been
10 admitted to the United States under a non-immigrant
11 visa (as that term is defined in Section 101(a)(26) of
12 the Immigration and Nationality Act (8 U.S.C.
13 1101(a)(26))), or that he or she is an alien who has
14 been lawfully admitted to the United States under a
15 non-immigrant visa if that alien is:

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

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

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

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

26 (3) an official of a foreign government or

1 distinguished foreign visitor who has been so
2 designated by the Department of State;

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

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

9 (xii) He or she is not a minor subject to a
10 petition filed under Section 5-520 of the Juvenile
11 Court Act of 1987 alleging that the minor is a
12 delinquent minor for the commission of an offense that
13 if committed by an adult would be a felony; and

14 (xiii) He or she is not an adult who had been
15 adjudicated a delinquent minor under the Juvenile
16 Court Act of 1987 for the commission of an offense that
17 if committed by an adult would be a felony; and

18 (3) Upon request by the Department of State Police,
19 sign a release on a form prescribed by the Department of
20 State Police waiving any right to confidentiality and
21 requesting the disclosure to the Department of State Police
22 of limited mental health institution admission information
23 from another state, the District of Columbia, any other
24 territory of the United States, or a foreign nation
25 concerning the applicant for the sole purpose of
26 determining whether the applicant is or was a patient in a

1 mental health institution and disqualified because of that
2 status from receiving a Firearm Owner's Identification
3 Card. No mental health care or treatment records may be
4 requested. The information received shall be destroyed
5 within one year of receipt.

6 (a-5) Each applicant for a Firearm Owner's Identification
7 Card who is over the age of 18 shall furnish to the Department
8 of State Police either his or her driver's license number or
9 Illinois Identification Card number.

10 (a-10) Each applicant for a Firearm Owner's Identification
11 Card, who is employed as an armed security officer at a nuclear
12 energy, storage, weapons, or development facility regulated by
13 the Nuclear Regulatory Commission and who is not an Illinois
14 resident, shall furnish to the Department of State Police his
15 or her driver's license number or state identification card
16 number from his or her state of residence. The Department of
17 State Police may promulgate rules to enforce the provisions of
18 this subsection (a-10).

19 (b) Each application form shall include the following
20 statement printed in bold type: "Warning: Entering false
21 information on an application for a Firearm Owner's
22 Identification Card is punishable as a Class 2 felony in
23 accordance with subsection (d-5) of Section 14 of the Firearm
24 Owners Identification Card Act."

25 (c) Upon such written consent, pursuant to Section 4,
26 paragraph (a) (2) (i), the parent or legal guardian giving the

1 consent shall be liable for any damages resulting from the
2 applicant's use of firearms or firearm ammunition.

3 (Source: P.A. 92-442, eff. 8-17-01; 92-839, eff. 8-22-02;
4 92-854, eff. 12-5-02; 93-367, eff. 1-1-04.)

5 (430 ILCS 65/8) (from Ch. 38, par. 83-8)

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

11 (a) A person under 21 years of age who has been convicted
12 of a misdemeanor other than a traffic offense or adjudged
13 delinquent;

14 (b) A person under 21 years of age who does not have the
15 written consent of his parent or guardian to acquire and
16 possess firearms and firearm ammunition, or whose parent or
17 guardian has revoked such written consent, or where such parent
18 or guardian does not qualify to have a Firearm Owner's
19 Identification Card;

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

22 (d) A person addicted to narcotics;

23 (e) A person who has been a patient of a mental institution
24 or has been adjudicated under Chapter III of the Mental Health
25 and Developmental Disabilities Code as being in need of

1 voluntary or involuntary mental health treatment within the
2 past 5 years;

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

6 For the purposes of this Section, "mental condition" means
7 a state of mind manifested by violent, suicidal, threatening or
8 assaultive behavior.

9 (g) A person who is mentally retarded;

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

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

14 (i-5) An alien who has been admitted to the United States
15 under a non-immigrant visa (as that term is defined in Section
16 101(a)(26) of the Immigration and Nationality Act (8 U.S.C.
17 1101(a)(26))), except that this subsection (i-5) does not apply
18 to any alien who has been lawfully admitted to the United
19 States under a non-immigrant visa if that alien is:

20 (1) admitted to the United States for lawful hunting or
21 sporting purposes;

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

24 (A) accredited to the United States Government or
25 the Government's mission to an international
26 organization having its headquarters in the United

1 States; or

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

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

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

10 (5) one who has received a waiver from the Attorney
11 General of the United States pursuant to 18 U.S.C.
12 922(y)(3);

13 (j) A person who is subject to an existing order of
14 protection prohibiting him or her from possessing a firearm;

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

19 (l) A person who has been convicted of domestic battery or
20 a substantially similar offense in another jurisdiction
21 committed on or after January 1, 1998;

22 (m) A person who has been convicted within the past 5 years
23 of domestic battery or a substantially similar offense in
24 another jurisdiction committed before January 1, 1998;

25 (n) A person who is prohibited from acquiring or possessing
26 firearms or firearm ammunition by any Illinois State statute or

1 by federal law;

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

6 (p) An adult who had been adjudicated a delinquent minor
7 under the Juvenile Court Act of 1987 for the commission of an
8 offense that if committed by an adult would be a felony.

9 (Source: P.A. 92-854, eff. 12-5-02; 93-367, eff. 1-1-04.)

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.