



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB2792

by Rep. Elgie R. Sims, Jr.

#### SYNOPSIS AS INTRODUCED:

|                 |                           |
|-----------------|---------------------------|
| 430 ILCS 65/4   | from Ch. 38, par. 83-4    |
| 430 ILCS 65/8   | from Ch. 38, par. 83-8    |
| 740 ILCS 110/11 | from Ch. 91 1/2, par. 811 |

Amends the Firearm Owners Identification Card Act. Provides that an applicant for a Firearm Owner's Identification Card must receive a psychiatric or psychological evaluation by a psychiatrist, clinical psychologist, or clinical social worker and receive a certification by the psychiatrist, clinical psychologist, or clinical social worker that he or she: (1) is not a danger to himself, herself, or to others; (2) does not lack the mental capacity to manage his or her own affairs; (3) is able to provide for his or her basic physical needs so as to guard himself or herself from serious harm without the assistance of family or others; and (4) does not have a state of mind manifested by violent, suicidal, threatening, or assaultive behavior that poses a clear and present danger to himself, herself, or to others at the time of the evaluation or in the future. Provides that if a patient of a psychiatrist, clinical psychologist, or clinical social worker has received a psychiatric or psychological evaluation and the psychiatrist, clinical psychologist, or clinical social worker determines that the Card holder is ineligible for the Card for these reasons, the psychiatrist, clinical psychologist, or clinical social worker shall immediately after making the determination shall forward that information to the Department of State Police. Amends the Mental Health and Developmental Disabilities Confidentiality Act to permit disclosure of this information. Effective immediately.

LRB098 07260 RLC 37322 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 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 within the past 5 years and he or she has  
10 not been adjudicated as a mental defective;

11 (v) He or she is not intellectually disabled;

12 (vi) He or she is not an alien who is unlawfully  
13 present in the United States under the laws of the  
14 United States;

15 (vii) He or she is not subject to an existing order  
16 of protection prohibiting him or her from possessing a  
17 firearm;

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

23 (ix) He or she has not been convicted of domestic  
24 battery, aggravated domestic battery, or a  
25 substantially similar offense in another jurisdiction  
26 committed before, on or after January 1, 2012 (the

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

13 (x) (Blank);

14 (xi) He or she is not an alien who has been  
15 admitted to the United States under a non-immigrant  
16 visa (as that term is defined in Section 101(a) (26) of  
17 the Immigration and Nationality Act (8 U.S.C.  
18 1101(a) (26))), or that he or she is an alien who has  
19 been lawfully admitted to the United States under a  
20 non-immigrant visa if that alien is:

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

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

25 (A) accredited to the United States  
26 Government or the Government's mission to an

1 international organization having its  
2 headquarters in the United States; or

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

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

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

11 (5) one who has received a waiver from the  
12 Attorney General of the United States pursuant to  
13 18 U.S.C. 922 (y) (3);

14 (xii) He or she is not a minor subject to a  
15 petition filed under Section 5-520 of the Juvenile  
16 Court Act of 1987 alleging that the minor is a  
17 delinquent minor for the commission of an offense that  
18 if committed by an adult would be a felony;

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

23 (xiv) He or she is a resident of the State of  
24 Illinois; and

25 (xv) He or she has received a psychiatric or  
26 psychological evaluation by a psychiatrist, clinical

1 psychologist, or clinical social worker as those terms  
2 are defined in the Mental Health and Developmental  
3 Disabilities Code and has received a certification by  
4 the psychiatrist, clinical psychologist, or clinical  
5 social worker that he or she:

6 (1) is not a danger to himself, herself, or to  
7 others;

8 (2) does not lack the mental capacity to manage  
9 his or her own affairs;

10 (3) is able to provide for his or her basic  
11 physical needs so as to guard himself or herself  
12 from serious harm without the assistance of family  
13 or others; and

14 (4) does not have a state of mind manifested by  
15 violent, suicidal, threatening, or assaultive  
16 behavior that poses a clear and present danger to  
17 himself, herself, or to others at the time of the  
18 evaluation or in the future.

19 The certification shall be submitted to the  
20 Department of State Police by the applicant at the time  
21 of his or her application; and

22 (3) Upon request by the Department of State Police,  
23 sign a release on a form prescribed by the Department of  
24 State Police waiving any right to confidentiality and  
25 requesting the disclosure to the Department of State Police  
26 of limited mental health institution admission information

1 from another state, the District of Columbia, any other  
2 territory of the United States, or a foreign nation  
3 concerning the applicant for the sole purpose of  
4 determining whether the applicant is or was a patient in a  
5 mental health institution and disqualified because of that  
6 status from receiving a Firearm Owner's Identification  
7 Card. No mental health care or treatment records may be  
8 requested. The information received shall be destroyed  
9 within one year of receipt.

10 (a-5) Each applicant for a Firearm Owner's Identification  
11 Card who is over the age of 18 shall furnish to the Department  
12 of State Police either his or her Illinois driver's license  
13 number or Illinois Identification Card number, except as  
14 provided in subsection (a-10).

15 (a-10) Each applicant for a Firearm Owner's Identification  
16 Card, who is employed as a law enforcement officer, an armed  
17 security officer in Illinois, or by the United States Military  
18 permanently assigned in Illinois and who is not an Illinois  
19 resident, shall furnish to the Department of State Police his  
20 or her driver's license number or state identification card  
21 number from his or her state of residence. The Department of  
22 State Police may promulgate rules to enforce the provisions of  
23 this subsection (a-10).

24 (a-15) If an applicant applying for a Firearm Owner's  
25 Identification Card moves from the residence address named in  
26 the application, he or she shall immediately notify in a form

1 and manner prescribed by the Department of State Police of that  
2 change of address.

3 (a-20) Each applicant for a Firearm Owner's Identification  
4 Card shall furnish to the Department of State Police his or her  
5 photograph. An applicant who is 21 years of age or older  
6 seeking a religious exemption to the photograph requirement  
7 must furnish with the application an approved copy of United  
8 States Department of the Treasury Internal Revenue Service Form  
9 4029. In lieu of a photograph, an applicant regardless of age  
10 seeking a religious exemption to the photograph requirement  
11 shall submit fingerprints on a form and manner prescribed by  
12 the Department with his or her application.

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

19 (c) Upon such written consent, pursuant to Section 4,  
20 paragraph (a)(2)(i), the parent or legal guardian giving the  
21 consent shall be liable for any damages resulting from the  
22 applicant's use of firearms or firearm ammunition.

23 (Source: P.A. 97-158, eff. 1-1-12; 97-227, eff. 1-1-12; 97-813,  
24 eff. 7-13-12; 97-1131, eff. 1-1-13.)

25 (430 ILCS 65/8) (from Ch. 38, par. 83-8)



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

6           (a) A person under 21 years of age who has been convicted  
7 of a misdemeanor other than a traffic offense or adjudged  
8 delinquent;

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

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

17           (d) A person addicted to narcotics;

18           (e) A person who has been a patient of a mental institution  
19 within the past 5 years or has been adjudicated as a mental  
20 defective;

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

24           For the purposes of this Section, "mental condition" means  
25 a state of mind manifested by violent, suicidal, threatening or  
26 assaultive behavior.

1 (g) A person who is intellectually disabled;

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

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

6 (i-5) An alien who has been admitted to the United States  
7 under a non-immigrant visa (as that term is defined in Section  
8 101(a)(26) of the Immigration and Nationality Act (8 U.S.C.  
9 1101(a)(26))), except that this subsection (i-5) does not apply  
10 to any alien who has been lawfully admitted to the United  
11 States under a non-immigrant visa if that alien is:

12 (1) admitted to the United States for lawful hunting or  
13 sporting purposes;

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

16 (A) accredited to the United States Government or  
17 the Government's mission to an international  
18 organization having its headquarters in the United  
19 States; or

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

22 (3) an official of a foreign government or  
23 distinguished foreign visitor who has been so designated by  
24 the Department of State;

25 (4) a foreign law enforcement officer of a friendly  
26 foreign government entering the United States on official

1 business; or

2 (5) one who has received a waiver from the Attorney  
3 General of the United States pursuant to 18 U.S.C.  
4 922 (y) (3);

5 (j) (Blank);

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

10 (l) A person who has been convicted of domestic battery,  
11 aggravated domestic battery, or a substantially similar  
12 offense in another jurisdiction committed before, on or after  
13 January 1, 2012 (the effective date of Public Act 97-158). If  
14 the applicant or person who has been previously issued a  
15 Firearm Owner's Identification Card under this Act knowingly  
16 and intelligently waives the right to have an offense described  
17 in this paragraph (l) tried by a jury, and by guilty plea or  
18 otherwise, results in a conviction for an offense in which a  
19 domestic relationship is not a required element of the offense  
20 but in which a determination of the applicability of 18 U.S.C.  
21 922(g)(9) is made under Section 112A-11.1 of the Code of  
22 Criminal Procedure of 1963, an entry by the court of a judgment  
23 of conviction for that offense shall be grounds for denying an  
24 application for and for revoking and seizing a Firearm Owner's  
25 Identification Card previously issued to the person under this  
26 Act;

1 (m) (Blank);

2 (n) A person who is prohibited from acquiring or possessing  
3 firearms or firearm ammunition by any Illinois State statute or  
4 by federal law;

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

9 (p) An adult who had been adjudicated a delinquent minor  
10 under the Juvenile Court Act of 1987 for the commission of an  
11 offense that if committed by an adult would be a felony; ~~or~~

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

15 (s) A person who has received a psychiatric or  
16 psychological evaluation by a psychiatrist, clinical  
17 psychologist, or clinical social worker as those terms are  
18 defined in the Mental Health and Developmental Disabilities  
19 Code and the psychiatrist, clinical psychologist, or clinical  
20 social worker determines that the Card holder:

21 (1) is a danger to himself, herself, or to  
22 others;

23 (2) lacks the mental capacity to manage his or  
24 her own affairs;

25 (3) is unable to provide for his or her basic  
26 physical needs so as to guard himself or herself

1           from serious harm without the assistance of family  
2           or others; and

3           (4) has a state of mind manifested by violent,  
4           suicidal, threatening, or assaultive behavior that  
5           poses a clear and present danger to himself,  
6           herself, or to others at the time of the evaluation  
7           or in the future.

8           The psychiatrist, clinical psychologist, or  
9           clinical social worker shall immediately after making  
10          the determination described in this subsection (s)  
11          shall forward that information to the Department of  
12          State Police.

13          (Source: P.A. 96-701, eff. 1-1-10; 97-158, eff. 1-1-12; 97-227,  
14          eff. 1-1-12; 97-813, eff. 7-13-12; 97-1131, eff. 1-1-13.)

15           Section 10. The Mental Health and Developmental  
16          Disabilities Confidentiality Act is amended by changing  
17          Section 11 as follows:

18           (740 ILCS 110/11) (from Ch. 91 1/2, par. 811)

19           Sec. 11. Disclosure of records and communications. Records  
20          and communications may be disclosed:

21           (i) in accordance with the provisions of the Abused and  
22          Neglected Child Reporting Act, subsection (u) of Section 5  
23          of the Children and Family Services Act, or Section 7.4 of  
24          the Child Care Act of 1969;

1           (ii) when, and to the extent, a therapist, in his or  
2 her sole discretion, determines that disclosure is  
3 necessary to initiate or continue civil commitment or  
4 involuntary treatment proceedings under the laws of this  
5 State or to otherwise protect the recipient or other person  
6 against a clear, imminent risk of serious physical or  
7 mental injury or disease or death being inflicted upon the  
8 recipient or by the recipient on himself or another;

9           (iii) when, and to the extent disclosure is, in the  
10 sole discretion of the therapist, necessary to the  
11 provision of emergency medical care to a recipient who is  
12 unable to assert or waive his or her rights hereunder;

13           (iv) when disclosure is necessary to collect sums or  
14 receive third party payment representing charges for  
15 mental health or developmental disabilities services  
16 provided by a therapist or agency to a recipient under  
17 Chapter V of the Mental Health and Developmental  
18 Disabilities Code or to transfer debts under the  
19 Uncollected State Claims Act; however, disclosure shall be  
20 limited to information needed to pursue collection, and the  
21 information so disclosed shall not be used for any other  
22 purposes nor shall it be redisclosed except in connection  
23 with collection activities;

24           (v) when requested by a family member, the Department  
25 of Human Services may assist in the location of the  
26 interment site of a deceased recipient who is interred in a

1 cemetery established under Section 26 of the Mental Health  
2 and Developmental Disabilities Administrative Act;

3 (vi) in judicial proceedings under Article VIII of  
4 Chapter III and Article V of Chapter IV of the Mental  
5 Health and Developmental Disabilities Code and proceedings  
6 and investigations preliminary thereto, to the State's  
7 Attorney for the county or residence of a person who is the  
8 subject of such proceedings, or in which the person is  
9 found, or in which the facility is located, to the attorney  
10 representing the petitioner in the judicial proceedings,  
11 to the attorney representing the recipient in the judicial  
12 proceedings, to any person or agency providing mental  
13 health services that are the subject of the proceedings and  
14 to that person's or agency's attorney, to any court  
15 personnel, including but not limited to judges and circuit  
16 court clerks, and to a guardian ad litem if one has been  
17 appointed by the court. Information disclosed under this  
18 subsection shall not be utilized for any other purpose nor  
19 be redisclosed except in connection with the proceedings or  
20 investigations. Copies of any records provided to counsel  
21 for a petitioner shall be deleted or destroyed at the end  
22 of the proceedings and counsel for petitioner shall certify  
23 to the court in writing that he or she has done so. At the  
24 request of a recipient or his or her counsel, the court  
25 shall issue a protective order insuring the  
26 confidentiality of any records or communications provided

1 to counsel for a petitioner;

2 (vii) when, and to the extent disclosure is necessary  
3 to comply with the requirements of the Census Bureau in  
4 taking the federal Decennial Census;

5 (viii) when, and to the extent, in the therapist's sole  
6 discretion, disclosure is necessary to warn or protect a  
7 specific individual against whom a recipient has made a  
8 specific threat of violence where there exists a  
9 therapist-recipient relationship or a special  
10 recipient-individual relationship;

11 (ix) in accordance with the Sex Offender Registration  
12 Act;

13 (x) in accordance with the Rights of Crime Victims and  
14 Witnesses Act;

15 (xi) in accordance with Section 6 of the Abused and  
16 Neglected Long Term Care Facility Residents Reporting Act;  
17 ~~and~~

18 (xii) in accordance with Section 55 of the Abuse of  
19 Adults with Disabilities Intervention Act; and

20 (xiii) in accordance with clause (a) (2) (xv) of Section  
21 4 and subsection (s) of Section 8 of the Firearm Owners  
22 Identification Card Act.

23 Any person, institution, or agency, under this Act,  
24 participating in good faith in the making of a report under the  
25 Abused and Neglected Child Reporting Act or in the disclosure  
26 of records and communications under this Section, shall have



1 immunity from any liability, civil, criminal or otherwise, that  
2 might result by reason of such action. For the purpose of any  
3 proceeding, civil or criminal, arising out of a report or  
4 disclosure under this Section, the good faith of any person,  
5 institution, or agency so reporting or disclosing shall be  
6 presumed.

7 (Source: P.A. 96-466, eff. 8-14-09; 97-333, eff. 8-12-11;  
8 97-375, eff. 8-15-11.)

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