



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB2529

Introduced 2/16/2016, by Sen. William R. Haine

SYNOPSIS AS INTRODUCED:

410 ILCS 130/5	
430 ILCS 65/1.1	from Ch. 38, par. 83-1.1
430 ILCS 65/8	from Ch. 38, par. 83-8
430 ILCS 65/10	from Ch. 38, par. 83-10

Amends the Compassionate Use of Medical Cannabis Pilot Program Act. Includes in the findings Section of the Act that one of the purposes of the Act is to protect patients with debilitating medical conditions, as well as their physicians and providers, from denial or revocation of a Firearm Owner's Identification Card or concealed carry license. Amends the Firearm Owners Identification Card Act. Provides that the definition of "addicted to narcotics" does not include possession or use of recommended cannabis under the Compassionate Use of Medical Cannabis Pilot Program Act under the direction and authority of a physician or other person authorized to prescribe or recommend cannabis under that Act if used in the recommended manner. Provides that the Department of State Police may not deny an application for or revoke a Firearm Owner's Identification Card of a person who is a registered qualifying patient or registered designated caregiver under the Compassionate Use of Medical Cannabis Pilot Program Act. Effective immediately.

LRB099 16122 RLC 40446 b

1 AN ACT concerning medical cannabis.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Compassionate Use of Medical Cannabis Pilot
5 Program Act is amended by changing Section 5 as follows:

6 (410 ILCS 130/5)

7 (Section scheduled to be repealed on January 1, 2018)

8 Sec. 5. Findings.

9 (a) The recorded use of cannabis as a medicine goes back
10 nearly 5,000 years. Modern medical research has confirmed the
11 beneficial uses of cannabis in treating or alleviating the
12 pain, nausea, and other symptoms associated with a variety of
13 debilitating medical conditions, including cancer, multiple
14 sclerosis, and HIV/AIDS, as found by the National Academy of
15 Sciences' Institute of Medicine in March 1999.

16 (b) Studies published since the 1999 Institute of Medicine
17 report continue to show the therapeutic value of cannabis in
18 treating a wide array of debilitating medical conditions. These
19 include relief of the neuropathic pain caused by multiple
20 sclerosis, HIV/AIDS, and other illnesses that often fail to
21 respond to conventional treatments and relief of nausea,
22 vomiting, and other side effects of drugs used to treat
23 HIV/AIDS and hepatitis C, increasing the chances of patients

1 continuing on life-saving treatment regimens.

2 (c) Cannabis has many currently accepted medical uses in
3 the United States, having been recommended by thousands of
4 licensed physicians to at least 600,000 patients in states with
5 medical cannabis laws. The medical utility of cannabis is
6 recognized by a wide range of medical and public health
7 organizations, including the American Academy of HIV Medicine,
8 the American College of Physicians, the American Nurses
9 Association, the American Public Health Association, the
10 Leukemia & Lymphoma Society, and many others.

11 (d) Data from the Federal Bureau of Investigation's Uniform
12 Crime Reports and the Compendium of Federal Justice Statistics
13 show that approximately 99 out of every 100 cannabis arrests in
14 the U.S. are made under state law, rather than under federal
15 law. Consequently, changing State law will have the practical
16 effect of protecting from arrest the vast majority of seriously
17 ill patients who have a medical need to use cannabis.

18 (e) Alaska, Arizona, California, Colorado, Connecticut,
19 Delaware, Hawaii, Maine, Massachusetts, Michigan, Montana,
20 Nevada, New Jersey, New Mexico, Oregon, Rhode Island, Vermont,
21 Washington, and Washington, D.C. have removed state-level
22 criminal penalties from the medical use and cultivation of
23 cannabis. Illinois joins in this effort for the health and
24 welfare of its citizens.

25 (f) States are not required to enforce federal law or
26 prosecute people for engaging in activities prohibited by

1 federal law. Therefore, compliance with this Act does not put
2 the State of Illinois in violation of federal law.

3 (g) State law should make a distinction between the medical
4 and non-medical uses of cannabis. Hence, the purpose of this
5 Act is to protect patients with debilitating medical
6 conditions, as well as their physicians and providers, from
7 arrest and prosecution, criminal and other penalties,
8 including denial or revocation of a Firearm Owner's
9 Identification Card or concealed carry license, and property
10 forfeiture if the patients engage in the medical use of
11 cannabis.

12 (Source: P.A. 98-122, eff. 1-1-14.)

13 Section 10. The Firearm Owners Identification Card Act is
14 amended by changing Sections 1.1, 8, and 10 as follows:

15 (430 ILCS 65/1.1) (from Ch. 38, par. 83-1.1)

16 Sec. 1.1. For purposes of this Act:

17 "Addicted to narcotics" means a person who has been:

18 (1) convicted of an offense involving the use or
19 possession of cannabis, a controlled substance, or
20 methamphetamine within the past year; or

21 (2) determined by the Department of State Police to be
22 addicted to narcotics based upon State ~~federal~~ law or State
23 ~~federal~~ guidelines.

24 "Addicted to narcotics" does not include possession or use

1 of a prescribed controlled substance under the Illinois
2 Controlled Substances Act or possession or use of prescribed or
3 recommended cannabis under the Compassionate Use of Medical
4 Cannabis Pilot Program Act under the direction and authority of
5 a physician or other person authorized to prescribe the
6 controlled substance under the Illinois Controlled Substances
7 Act or prescribe or recommend cannabis under the Compassionate
8 Use of Medical Cannabis Pilot Program Act when the controlled
9 substance or cannabis is used in the prescribed or recommended
10 manner.

11 "Adjudicated as a person with a mental disability" means
12 the person is the subject of a determination by a court, board,
13 commission or other lawful authority that the person, as a
14 result of marked subnormal intelligence, or mental illness,
15 mental impairment, incompetency, condition, or disease:

16 (1) presents a clear and present danger to himself,
17 herself, or to others;

18 (2) lacks the mental capacity to manage his or her own
19 affairs or is adjudicated a person with a disability as
20 defined in Section 11a-2 of the Probate Act of 1975;

21 (3) is not guilty in a criminal case by reason of
22 insanity, mental disease or defect;

23 (3.5) is guilty but mentally ill, as provided in
24 Section 5-2-6 of the Unified Code of Corrections;

25 (4) is incompetent to stand trial in a criminal case;

26 (5) is not guilty by reason of lack of mental

1 responsibility under Articles 50a and 72b of the Uniform
2 Code of Military Justice, 10 U.S.C. 850a, 876b;

3 (6) is a sexually violent person under subsection (f)
4 of Section 5 of the Sexually Violent Persons Commitment
5 Act;

6 (7) is a sexually dangerous person under the Sexually
7 Dangerous Persons Act;

8 (8) is unfit to stand trial under the Juvenile Court
9 Act of 1987;

10 (9) is not guilty by reason of insanity under the
11 Juvenile Court Act of 1987;

12 (10) is subject to involuntary admission as an
13 inpatient as defined in Section 1-119 of the Mental Health
14 and Developmental Disabilities Code;

15 (11) is subject to involuntary admission as an
16 outpatient as defined in Section 1-119.1 of the Mental
17 Health and Developmental Disabilities Code;

18 (12) is subject to judicial admission as set forth in
19 Section 4-500 of the Mental Health and Developmental
20 Disabilities Code; or

21 (13) is subject to the provisions of the Interstate
22 Agreements on Sexually Dangerous Persons Act.

23 "Clear and present danger" means a person who:

24 (1) communicates a serious threat of physical violence
25 against a reasonably identifiable victim or poses a clear
26 and imminent risk of serious physical injury to himself,

1 herself, or another person as determined by a physician,
2 clinical psychologist, or qualified examiner; or

3 (2) demonstrates threatening physical or verbal
4 behavior, such as violent, suicidal, or assaultive
5 threats, actions, or other behavior, as determined by a
6 physician, clinical psychologist, qualified examiner,
7 school administrator, or law enforcement official.

8 "Clinical psychologist" has the meaning provided in
9 Section 1-103 of the Mental Health and Developmental
10 Disabilities Code.

11 "Controlled substance" means a controlled substance or
12 controlled substance analog as defined in the Illinois
13 Controlled Substances Act.

14 "Counterfeit" means to copy or imitate, without legal
15 authority, with intent to deceive.

16 ~~disability~~

17 ~~This disability results in the professional opinion of a~~
18 ~~physician, clinical psychologist, or qualified examiner, in~~
19 ~~significant functional limitations in 3 or more of the~~
20 ~~following areas of major life activity:~~

21 ~~(i) self-care;~~

22 ~~(ii) receptive and expressive language;~~

23 ~~(iii) learning;~~

24 ~~(iv) mobility; or~~

25 ~~(v) self-direction.~~

26 "Federally licensed firearm dealer" means a person who is

1 licensed as a federal firearms dealer under Section 923 of the
2 federal Gun Control Act of 1968 (18 U.S.C. 923).

3 "Firearm" means any device, by whatever name known, which
4 is designed to expel a projectile or projectiles by the action
5 of an explosion, expansion of gas or escape of gas; excluding,
6 however:

7 (1) any pneumatic gun, spring gun, paint ball gun, or
8 B-B gun which expels a single globular projectile not
9 exceeding .18 inch in diameter or which has a maximum
10 muzzle velocity of less than 700 feet per second;

11 (1.1) any pneumatic gun, spring gun, paint ball gun, or
12 B-B gun which expels breakable paint balls containing
13 washable marking colors;

14 (2) any device used exclusively for signalling or
15 safety and required or recommended by the United States
16 Coast Guard or the Interstate Commerce Commission;

17 (3) any device used exclusively for the firing of stud
18 cartridges, explosive rivets or similar industrial
19 ammunition; and

20 (4) an antique firearm (other than a machine-gun)
21 which, although designed as a weapon, the Department of
22 State Police finds by reason of the date of its
23 manufacture, value, design, and other characteristics is
24 primarily a collector's item and is not likely to be used
25 as a weapon.

26 "Firearm ammunition" means any self-contained cartridge or

1 shotgun shell, by whatever name known, which is designed to be
2 used or adaptable to use in a firearm; excluding, however:

3 (1) any ammunition exclusively designed for use with a
4 device used exclusively for signalling or safety and
5 required or recommended by the United States Coast Guard or
6 the Interstate Commerce Commission; and

7 (2) any ammunition designed exclusively for use with a
8 stud or rivet driver or other similar industrial
9 ammunition.

10 "Gun show" means an event or function:

11 (1) at which the sale and transfer of firearms is the
12 regular and normal course of business and where 50 or more
13 firearms are displayed, offered, or exhibited for sale,
14 transfer, or exchange; or

15 (2) at which not less than 10 gun show vendors display,
16 offer, or exhibit for sale, sell, transfer, or exchange
17 firearms.

18 "Gun show" includes the entire premises provided for an
19 event or function, including parking areas for the event or
20 function, that is sponsored to facilitate the purchase, sale,
21 transfer, or exchange of firearms as described in this Section.
22 Nothing in this definition shall be construed to exclude a gun
23 show held in conjunction with competitive shooting events at
24 the World Shooting Complex sanctioned by a national governing
25 body in which the sale or transfer of firearms is authorized
26 under subparagraph (5) of paragraph (g) of subsection (A) of

1 Section 24-3 of the Criminal Code of 2012.

2 Unless otherwise expressly stated, "gun show" does not
3 include training or safety classes, competitive shooting
4 events, such as rifle, shotgun, or handgun matches, trap,
5 skeet, or sporting clays shoots, dinners, banquets, raffles, or
6 any other event where the sale or transfer of firearms is not
7 the primary course of business.

8 "Gun show promoter" means a person who organizes or
9 operates a gun show.

10 "Gun show vendor" means a person who exhibits, sells,
11 offers for sale, transfers, or exchanges any firearms at a gun
12 show, regardless of whether the person arranges with a gun show
13 promoter for a fixed location from which to exhibit, sell,
14 offer for sale, transfer, or exchange any firearm.

15 "Involuntarily admitted" has the meaning as prescribed in
16 Sections 1-119 and 1-119.1 of the Mental Health and
17 Developmental Disabilities Code.

18 "Mental health facility" means any licensed private
19 hospital or hospital affiliate, institution, or facility, or
20 part thereof, and any facility, or part thereof, operated by
21 the State or a political subdivision thereof which provide
22 treatment of persons with mental illness and includes all
23 hospitals, institutions, clinics, evaluation facilities,
24 mental health centers, colleges, universities, long-term care
25 facilities, and nursing homes, or parts thereof, which provide
26 treatment of persons with mental illness whether or not the

1 primary purpose is to provide treatment of persons with mental
2 illness.

3 "National governing body" means a group of persons who
4 adopt rules and formulate policy on behalf of a national
5 firearm sporting organization.

6 "Patient" means:

7 (1) a person who voluntarily receives mental health
8 treatment as an in-patient or resident of any public or
9 private mental health facility, unless the treatment was
10 solely for an alcohol abuse disorder and no other secondary
11 substance abuse disorder or mental illness; or

12 (2) a person who voluntarily receives mental health
13 treatment as an out-patient or is provided services by a
14 public or private mental health facility, and who poses a
15 clear and present danger to himself, herself, or to others.

16 "Person with a developmental disability" means a person
17 with a disability which is attributable to any other condition
18 which results in impairment similar to that caused by an
19 intellectual disability and which requires services similar to
20 those required by persons with intellectual disabilities. The
21 disability must originate before the age of 18 years, be
22 expected to continue indefinitely, and constitute a
23 substantial disability. This disability results, in the
24 professional opinion of a physician, clinical psychologist, or
25 qualified examiner, in significant functional limitations in 3
26 or more of the following areas of major life activity:

- 1 (i) self-care;
2 (ii) receptive and expressive language;
3 (iii) learning;
4 (iv) mobility; or
5 (v) self-direction.

6 "Person with an intellectual disability" means a person
7 with a significantly subaverage general intellectual
8 functioning which exists concurrently with impairment in
9 adaptive behavior and which originates before the age of 18
10 years.

11 "Physician" has the meaning as defined in Section 1-120 of
12 the Mental Health and Developmental Disabilities Code.

13 "Qualified examiner" has the meaning provided in Section
14 1-122 of the Mental Health and Developmental Disabilities Code.

15 "Sanctioned competitive shooting event" means a shooting
16 contest officially recognized by a national or state shooting
17 sport association, and includes any sight-in or practice
18 conducted in conjunction with the event.

19 "School administrator" means the person required to report
20 under the School Administrator Reporting of Mental Health Clear
21 and Present Danger Determinations Law.

22 "Stun gun or taser" has the meaning ascribed to it in
23 Section 24-1 of the Criminal Code of 2012.

24 (Source: P.A. 98-63, eff. 7-9-13; 99-29, eff. 7-10-15; 99-143,
25 eff. 7-27-15; revised 10-20-15.)

1 (430 ILCS 65/8) (from Ch. 38, par. 83-8)

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

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

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

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

19 (d) A person addicted to narcotics;

20 (e) A person who has been a patient of a mental health
21 facility within the past 5 years or a person who has been a
22 patient in a mental health facility more than 5 years ago
23 who has not received the certification required under
24 subsection (u) of this Section. An active law enforcement
25 officer employed by a unit of government who is denied,
26 revoked, or has his or her Firearm Owner's Identification

1 Card seized under this subsection (e) may obtain relief as
2 described in subsection (c-5) of Section 10 of this Act if
3 the officer did not act in a manner threatening to the
4 officer, another person, or the public as determined by the
5 treating clinical psychologist or physician, and the
6 officer seeks mental health treatment;

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

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

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

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

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

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

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

26 (A) accredited to the United States Government

1 or the Government's mission to an international
2 organization having its headquarters in the United
3 States; or

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

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

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

12 (5) one who has received a waiver from the Attorney
13 General of the United States pursuant to 18 U.S.C.
14 922(y)(3);

15 (j) (Blank);

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

21 (l) A person who has been convicted of domestic
22 battery, aggravated domestic battery, or a substantially
23 similar offense in another jurisdiction committed before,
24 on or after January 1, 2012 (the effective date of Public
25 Act 97-158). If the applicant or person who has been
26 previously issued a Firearm Owner's Identification Card

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

13 (m) (Blank);

14 (n) A person who is prohibited from acquiring or
15 possessing firearms or firearm ammunition by any Illinois
16 State statute or by federal law; however, this subsection
17 (n) does not apply to a person who is a registered
18 qualifying patient or registered designated caregiver
19 under the Compassionate Use of Medical Cannabis Pilot
20 Program Act;

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

25 (p) An adult who had been adjudicated a delinquent
26 minor under the Juvenile Court Act of 1987 for the

1 commission of an offense that if committed by an adult
2 would be a felony;

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

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

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

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

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

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

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

12 (Source: P.A. 98-63, eff. 7-9-13; 98-508, eff. 8-19-13; 98-756,
13 eff. 7-16-14; 99-143, eff. 7-27-15.)

14 (430 ILCS 65/10) (from Ch. 38, par. 83-10)

15 Sec. 10. Appeal to director; hearing; relief from firearm
16 prohibitions.

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

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

10 (b) At least 30 days before any hearing in the circuit
11 court, the petitioner shall serve the relevant State's Attorney
12 with a copy of the petition. The State's Attorney may object to
13 the petition and present evidence. At the hearing the court
14 shall determine whether substantial justice has been done.
15 Should the court determine that substantial justice has not
16 been done, the court shall issue an order directing the
17 Department of State Police to issue a Card. However, the court
18 shall not issue the order if the petitioner is otherwise
19 prohibited from obtaining, possessing, or using a firearm under
20 federal law, unless the reason for denial or revocation is that
21 the person is a registered qualifying patient or registered
22 designated caregiver under the Compassionate Use of Medical
23 Cannabis Pilot Program Act.

24 (c) Any person prohibited from possessing a firearm under
25 Sections 24-1.1 or 24-3.1 of the Criminal Code of 2012 or
26 acquiring a Firearm Owner's Identification Card under Section 8

1 of this Act may apply to the Director of State Police or
2 petition the circuit court in the county where the petitioner
3 resides, whichever is applicable in accordance with subsection
4 (a) of this Section, requesting relief from such prohibition
5 and the Director or court may grant such relief if it is
6 established by the applicant to the court's or Director's
7 satisfaction that:

8 (0.05) when in the circuit court, the State's Attorney
9 has been served with a written copy of the petition at
10 least 30 days before any such hearing in the circuit court
11 and at the hearing the State's Attorney was afforded an
12 opportunity to present evidence and object to the petition;

13 (1) the applicant has not been convicted of a forcible
14 felony under the laws of this State or any other
15 jurisdiction within 20 years of the applicant's
16 application for a Firearm Owner's Identification Card, or
17 at least 20 years have passed since the end of any period
18 of imprisonment imposed in relation to that conviction;

19 (2) the circumstances regarding a criminal conviction,
20 where applicable, the applicant's criminal history and his
21 reputation are such that the applicant will not be likely
22 to act in a manner dangerous to public safety;

23 (3) granting relief would not be contrary to the public
24 interest; and

25 (4) granting relief would not be contrary to federal
26 law.

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

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

18 (B) the officer has not left the mental institution
19 against medical advice.

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

1 (A) a notarized statement from the officer in the form
2 prescribed by the Director detailing the circumstances
3 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 eligible for the expedited relief in paragraph
18 (2) of this subsection (c-5) have the burden of proof on
19 eligibility and must provide all information required. The
20 Director may not consider granting expedited relief until the
21 proof and information is received.

22 (4) "Clinical psychologist", "psychiatrist", and
23 "qualified examiner" shall have the same meaning as provided in
24 Chapter I of the Mental Health and Developmental Disabilities
25 Code.

26 (c-10) (1) An applicant, who is denied, revoked, or has his

1 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 requesting
5 relief.

6 (2) The Director shall act on the request for relief within
7 60 business days of receipt of written certification, in the
8 form prescribed by the Director, from a physician or clinical
9 psychologist, or qualified examiner, that the aggrieved
10 party's developmental disability or intellectual disability
11 condition is determined by a physician, clinical psychologist,
12 or qualified to be mild. If a fact-finding conference is
13 scheduled to obtain additional information concerning the
14 circumstances of the denial or revocation, the 60 business days
15 the Director has to act shall be tolled until the completion of
16 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 public
23 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 Act
4 of the 99th General Assembly apply to requests for relief
5 pending on or before the effective date of this amendatory Act,
6 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 and
11 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 99. Effective date. This Act takes effect upon
3 becoming law.