



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB2458

Introduced 1/18/2006, by Sen. Todd Sieben

SYNOPSIS AS INTRODUCED:

430 ILCS 65/10

from Ch. 38, par. 83-10

Amends the Firearm Owners Identification Card Act. Provides that when the Department of State Police fails to act upon an application for a Firearm Owner's Identification Card within 30 days after receipt, or if the application was wrongfully denied, the applicant may seek relief from the circuit court in writing in the county of his or her residence. Provides that the applicant is entitled to recover any costs, attorney's fees, damages, and not less than \$100 per day nor more than \$500 per day for every day past the 30th day in which the Department failed to act. Effective immediately.

LRB094 18502 RLC 53828 b

FISCAL NOTE ACT
MAY APPLY

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 Section 10 as follows:

6 (430 ILCS 65/10) (from Ch. 38, par. 83-10)

7 Sec. 10. (a) Whenever an application for a Firearm Owner's
8 Identification Card is denied, whenever the Department fails to
9 act on an application within 30 days of its receipt, or
10 whenever such a Card is revoked or seized as provided for in
11 Section 8 of this Act, the aggrieved party may appeal to the
12 Director of the Department of State Police for a hearing upon
13 such denial, revocation or seizure, unless the denial,
14 revocation, or seizure was based upon a forcible felony,
15 stalking, aggravated stalking, domestic battery, any violation
16 of the Illinois Controlled Substances Act, the Methamphetamine
17 Control and Community Protection Act, or the Cannabis Control
18 Act that is classified as a Class 2 or greater felony, any
19 felony violation of Article 24 of the Criminal Code of 1961, or
20 any adjudication as a delinquent minor for the commission of an
21 offense that if committed by an adult would be a felony, in
22 which case the aggrieved party may petition the circuit court
23 in writing in the county of his or her residence for a hearing
24 upon such denial, revocation, or seizure.

25 (a-5) When the Department of State Police fails to act upon
26 an application for a Firearm Owner's Identification Card within
27 30 days after receipt, or if the application was wrongfully
28 denied, the applicant may seek relief from the circuit court in
29 writing in the county of his or her residence. The applicant
30 shall be entitled to recover any costs, attorney's fees,
31 damages, and not less than \$100 per day nor more than \$500 per
32 day for every day past the 30th day in which the Department

1 failed to act. For the purposes of this Section, "receipt"
2 means whenever the Department or its agent takes possession of
3 the completed application and fee.

4 (b) At least 30 days before any hearing in the circuit
5 court, the petitioner shall serve the relevant State's Attorney
6 with a copy of the petition. The State's Attorney may object to
7 the petition and present evidence. At the hearing the court
8 shall determine whether substantial justice has been done.
9 Should the court determine that substantial justice has not
10 been done, the court shall issue an order directing the
11 Department of State Police to issue a Card.

12 (c) Any person prohibited from possessing a firearm under
13 Sections 24-1.1 or 24-3.1 of the Criminal Code of 1961 or
14 acquiring a Firearm Owner's Identification Card under Section 8
15 of this Act may apply to the Director of the Department of
16 State Police or petition the circuit court in the county where
17 the petitioner resides, whichever is applicable in accordance
18 with subsection (a) of this Section, requesting relief from
19 such prohibition and the Director or court may grant such
20 relief if it is established by the applicant to the court's or
21 Director's satisfaction that:

22 (0.05) when in the circuit court, the State's Attorney
23 has been served with a written copy of the petition at
24 least 30 days before any such hearing in the circuit court
25 and at the hearing the State's Attorney was afforded an
26 opportunity to present evidence and object to the petition;

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

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

1 (3) granting relief would not be contrary to the public
2 interest.

3 (d) When a minor is adjudicated delinquent for an offense
4 which if committed by an adult would be a felony, the court
5 shall notify the Department of State Police.

6 (e) The court shall review the denial of an application or
7 the revocation of a Firearm Owner's Identification Card of a
8 person who has been adjudicated delinquent for an offense that
9 if committed by an adult would be a felony if an application
10 for relief has been filed at least 10 years after the
11 adjudication of delinquency and the court determines that the
12 applicant should be granted relief from disability to obtain a
13 Firearm Owner's Identification Card. If the court grants
14 relief, the court shall notify the Department of State Police
15 that the disability has been removed and that the applicant is
16 eligible to obtain a Firearm Owner's Identification Card.

17 (Source: P.A. 93-367, eff. 1-1-04; 94-556, eff. 9-11-05.)

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.