

SB3333



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB3333

Introduced 2/19/2016, by Sen. Bill Cunningham

SYNOPSIS AS INTRODUCED:

See Index

Amends the Firearm Owners Identification Card Act. Provides that the Department of State Police also has authority to deny an application for or to revoke and seize a Firearm Owner's Identification Card previously issued under the Act if the Department finds that the applicant or the person to whom the card was issued is or was at the time of issuance: (1) a person who is subject to an order of protection, or similar protective order entered by another state, tribal, or territorial court; or (2) a person who is subject to a stalking no contact order prohibiting him or her from possessing a firearm. Provides that in counties with more than 3,000,000 inhabitants, in conjunction with the service of the protective order, the sheriff may serve a notice of revocation on behalf of the Department of State Police if the revocation is based on the issuance of an order of protection or of a stalking no contact order that prohibits the person from possessing a firearm. Provides that if the person is served by the sheriff with a notice of revocation based on the issuance of an order of protection or of a stalking no contact order that prohibits the person from possessing a firearm, establishes procedures for the person to surrender his or her firearms and Firearm Owner's Identification Card.

LRB099 19517 RLC 43911 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, 8, 9, and 9.5 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 health facility within the past 5 years or, if he or
10 she has been a patient in a mental health facility more
11 than 5 years ago submit the certification required
12 under subsection (u) of Section 8 of this Act;

13 (v) He or she is not a person with an intellectual
14 disability;

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, or similar protective order entered by
21 another state, tribal, or territorial court;

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

1 (ix) He or she has not been convicted of domestic
2 battery, aggravated domestic battery, or a
3 substantially similar offense in another jurisdiction
4 committed before, on or after January 1, 2012 (the
5 effective date of Public Act 97-158). If the applicant
6 knowingly and intelligently waives the right to have an
7 offense described in this clause (ix) tried by a jury,
8 and by guilty plea or otherwise, results in a
9 conviction for an offense in which a domestic
10 relationship is not a required element of the offense
11 but in which a determination of the applicability of 18
12 U.S.C. 922(g) (9) is made under Section 112A-11.1 of the
13 Code of Criminal Procedure of 1963, an entry by the
14 court of a judgment of conviction for that offense
15 shall be grounds for denying the issuance of a Firearm
16 Owner's Identification Card under this Section;

17 (ix-5) He or she is not subject to a stalking no
18 contact order prohibiting him or her from possessing a
19 firearm;

20 (x) (Blank);

21 (xi) He or she is not an alien who has been
22 admitted to the United States under a non-immigrant
23 visa (as that term is defined in Section 101(a) (26) of
24 the Immigration and Nationality Act (8 U.S.C.
25 1101(a) (26))), or that he or she is an alien who has
26 been lawfully admitted to the United States under a

1 non-immigrant visa if that alien is:

2 (1) admitted to the United States for lawful
3 hunting or sporting purposes;

4 (2) an official representative of a foreign
5 government who is:

6 (A) accredited to the United States
7 Government or the Government's mission to an
8 international organization having its
9 headquarters in the United States; or

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

12 (3) an official of a foreign government or
13 distinguished foreign visitor who has been so
14 designated by the Department of State;

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

18 (5) one who has received a waiver from the
19 Attorney General of the United States pursuant to
20 18 U.S.C. 922(y)(3);

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

26 (xiii) He or she is not an adult who had been

1 adjudicated a delinquent minor under the Juvenile
2 Court Act of 1987 for the commission of an offense that
3 if committed by an adult would be a felony;

4 (xiv) He or she is a resident of the State of
5 Illinois;

6 (xv) He or she has not been adjudicated as a person
7 with a mental disability;

8 (xvi) He or she has not been involuntarily admitted
9 into a mental health facility; and

10 (xvii) He or she is not a person with a
11 developmental disability; and

12 (3) Upon request by the Department of State Police,
13 sign a release on a form prescribed by the Department of
14 State Police waiving any right to confidentiality and
15 requesting the disclosure to the Department of State Police
16 of limited mental health institution admission information
17 from another state, the District of Columbia, any other
18 territory of the United States, or a foreign nation
19 concerning the applicant for the sole purpose of
20 determining whether the applicant is or was a patient in a
21 mental health institution and disqualified because of that
22 status from receiving a Firearm Owner's Identification
23 Card. No mental health care or treatment records may be
24 requested. The information received shall be destroyed
25 within one year of receipt.

26 (a-5) Each applicant for a Firearm Owner's Identification

1 Card who is over the age of 18 shall furnish to the Department
2 of State Police either his or her Illinois driver's license
3 number or Illinois Identification Card number, except as
4 provided in subsection (a-10).

5 (a-10) Each applicant for a Firearm Owner's Identification
6 Card, who is employed as a law enforcement officer, an armed
7 security officer in Illinois, or by the United States Military
8 permanently assigned in Illinois and who is not an Illinois
9 resident, shall furnish to the Department of State Police his
10 or her driver's license number or state identification card
11 number from his or her state of residence. The Department of
12 State Police may adopt rules to enforce the provisions of this
13 subsection (a-10).

14 (a-15) If an applicant applying for a Firearm Owner's
15 Identification Card moves from the residence address named in
16 the application, he or she shall immediately notify in a form
17 and manner prescribed by the Department of State Police of that
18 change of address.

19 (a-20) Each applicant for a Firearm Owner's Identification
20 Card shall furnish to the Department of State Police his or her
21 photograph. An applicant who is 21 years of age or older
22 seeking a religious exemption to the photograph requirement
23 must furnish with the application an approved copy of United
24 States Department of the Treasury Internal Revenue Service Form
25 4029. In lieu of a photograph, an applicant regardless of age
26 seeking a religious exemption to the photograph requirement

1 shall submit fingerprints on a form and manner prescribed by
2 the Department with his or her application.

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

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

13 (Source: P.A. 98-63, eff. 7-9-13; 99-143, eff. 7-27-15.)

14 (430 ILCS 65/8) (from Ch. 38, par. 83-8)

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

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

24 (b) A person under 21 years of age who does not have
25 the written consent of his parent or guardian to acquire

1 and possess firearms and firearm ammunition, or whose
2 parent or guardian has revoked such written consent, or
3 where such parent or guardian does not qualify to have a
4 Firearm Owner's Identification Card;

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

7 (d) A person addicted to narcotics;

8 (e) A person who has been a patient of a mental health
9 facility within the past 5 years or a person who has been a
10 patient in a mental health facility more than 5 years ago
11 who has not received the certification required under
12 subsection (u) of this Section. An active law enforcement
13 officer employed by a unit of government who is denied,
14 revoked, or has his or her Firearm Owner's Identification
15 Card seized under this subsection (e) may obtain relief as
16 described in subsection (c-5) of Section 10 of this Act if
17 the officer did not act in a manner threatening to the
18 officer, another person, or the public as determined by the
19 treating clinical psychologist or physician, and the
20 officer seeks mental health treatment;

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

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

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

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

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

10 (1) admitted to the United States for lawful
11 hunting or sporting purposes;

12 (2) an official representative of a foreign
13 government who is:

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

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

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

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

26 (5) one who has received a waiver from the Attorney

1 General of the United States pursuant to 18 U.S.C.
2 922 (y) (3);

3 (i-6) A person who is subject to an order of
4 protection, or similar protective order entered by another
5 state, tribal, or territorial court;

6 (j) (Blank);

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

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

1 application for and for revoking and seizing a Firearm
2 Owner's Identification Card previously issued to the
3 person under this Act;

4 (l-5) A person who is subject to a stalking no contact
5 order prohibiting him or her from possessing a firearm;

6 (m) (Blank);

7 (n) A person who is prohibited from acquiring or
8 possessing firearms or firearm ammunition by any Illinois
9 State statute or by federal law;

10 (o) A minor subject to a petition filed under Section
11 5-520 of the Juvenile Court Act of 1987 alleging that the
12 minor is a delinquent minor for the commission of an
13 offense that if committed by an adult would be a felony;

14 (p) An adult who had been adjudicated a delinquent
15 minor under the Juvenile Court Act of 1987 for the
16 commission of an offense that if committed by an adult
17 would be a felony;

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

21 (r) A person who has been adjudicated as a person with
22 a mental disability;

23 (s) A person who has been found to have a developmental
24 disability;

25 (t) A person involuntarily admitted into a mental
26 health facility; or

1 (u) A person who has had his or her Firearm Owner's
2 Identification Card revoked or denied under subsection (e)
3 of this Section or item (iv) of paragraph (2) of subsection
4 (a) of Section 4 of this Act because he or she was a
5 patient in a mental health facility as provided in
6 subsection (e) of this Section, shall not be permitted to
7 obtain a Firearm Owner's Identification Card, after the
8 5-year period has lapsed, unless he or she has received a
9 mental health evaluation by a physician, clinical
10 psychologist, or qualified examiner as those terms are
11 defined in the Mental Health and Developmental
12 Disabilities Code, and has received a certification that he
13 or she is not a clear and present danger to himself,
14 herself, or others. The physician, clinical psychologist,
15 or qualified examiner making the certification and his or
16 her employer shall not be held criminally, civilly, or
17 professionally liable for making or not making the
18 certification required under this subsection, except for
19 willful or wanton misconduct. This subsection does not
20 apply to a person whose firearm possession rights have been
21 restored through administrative or judicial action under
22 Section 10 or 11 of this Act.

23 Upon revocation of a person's Firearm Owner's
24 Identification Card, the Department of State Police shall
25 provide notice to the person and the person shall comply with
26 Section 9.5 of this Act.

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

3 (430 ILCS 65/9) (from Ch. 38, par. 83-9)

4 Sec. 9.

5 (a) Every person whose application for a Firearm Owner's
6 Identification Card is denied, and every holder of such a Card
7 whose Card is revoked or seized, shall receive a written notice
8 from the Department of State Police stating specifically the
9 grounds upon which his application has been denied or upon
10 which his Identification Card has been revoked. The written
11 notice shall include the requirements of Section 9.5 of this
12 Act and the persons's right to administrative or judicial
13 review under Section 10 and 11 of this Act. A copy of the
14 written notice shall be provided to the sheriff and law
15 enforcement agency where the person resides.

16 (b) In counties with more than 3,000,000 inhabitants, in
17 conjunction with the service of the protective order, the
18 sheriff may serve a notice of revocation on behalf of the
19 Department of State Police if the revocation is based on the
20 issuance of an order of protection or of a stalking no contact
21 order that prohibits the person from possessing a firearm. The
22 sheriff shall use a standard form approved by the Department of
23 State Police.

24 (Source: P.A. 97-1131, eff. 1-1-13; 98-63, eff. 7-9-13.)

1 (430 ILCS 65/9.5)

2 Sec. 9.5. Revocation of Firearm Owner's Identification
3 Card.

4 (a) Except for counties with more than 3,000,000
5 inhabitants when the revocation is based on the issuance of a
6 protective order, a ~~A~~ person who receives a revocation notice
7 under Section 9 of this Act shall, within 48 hours of receiving
8 notice of the revocation:

9 (1) surrender his or her Firearm Owner's
10 Identification Card to the local law enforcement agency
11 where the person resides. The local law enforcement agency
12 shall provide the person a receipt and transmit the Firearm
13 Owner's Identification Card to the Department of State
14 Police; and

15 (2) complete a Firearm Disposition Record on a form
16 prescribed by the Department of State Police and place his
17 or her firearms in the location or with the person reported
18 in the Firearm Disposition Record. The form shall require
19 the person to disclose:

20 (A) the make, model, and serial number of each
21 firearm owned by or under the custody and control of
22 the revoked person;

23 (B) the location where each firearm will be
24 maintained during the prohibited term; and

25 (C) if any firearm will be transferred to the
26 custody of another person, the name, address and

1 Firearm Owner's Identification Card number of the
2 transferee.

3 (a-5) If the person is served by the sheriff with a notice
4 of revocation based on the issuance of an order of protection
5 or of a stalking no contact order that prohibits the person
6 from possessing a firearm:

7 (1) the person shall immediately surrender his or her
8 Firearm Owner's Identification Card to the sheriff serving
9 the protective order. The sheriff shall provide the person
10 with a receipt and send the Firearm Owner's Identification
11 Card to the Department of State Police;

12 (2) the person shall immediately surrender all
13 firearms in his or her possession to the sheriff serving
14 the protective order for safekeeping;

15 (3) the sheriff shall store the firearms for a period
16 of up to 2 years until the person's Firearm Owner's
17 Identification Card is reinstated or allow the person to
18 transfer the firearms to a federally licensed firearm
19 dealer or to another person who holds a valid Firearm
20 Owner's Identification Card and who does not reside with
21 the person. If the transfer is made, the person shall
22 complete the Firearm Disposition Record as described in
23 paragraph (2) of subsection (a) of this Section; and

24 (4) if the person has not retrieved or transferred the
25 firearms within 2 years and cannot be located or fails to
26 respond to requests to retrieve the firearms, the sheriff

1 may seek a court order from the court that issued the order
2 of protection or stalking no contact order to destroy the
3 firearms, use the firearms for training purposes, or for
4 any other appropriate law enforcement purpose.

5 (b) The local law enforcement agency shall provide a copy
6 of the Firearm Disposition Record to the person whose Firearm
7 Owner's Identification Card has been revoked and to the
8 Department of State Police.

9 (c) If the person whose Firearm Owner's Identification Card
10 has been revoked fails to comply with the requirements of this
11 Section, the sheriff or law enforcement agency where the person
12 resides may petition the circuit court to issue a warrant to
13 search for and seize the Firearm Owner's Identification Card
14 and firearms in the possession or under the custody or control
15 of the person whose Firearm Owner's Identification Card has
16 been revoked.

17 (d) A violation of subsection (a) of this Section is a
18 Class A misdemeanor.

19 (e) The observation of a Firearm Owner's Identification
20 Card in the possession of a person whose Firearm Owner's
21 Identification Card has been revoked constitutes a sufficient
22 basis for the arrest of that person for violation of this
23 Section.

24 (f) Within 30 days after the effective date of this
25 amendatory Act of the 98th General Assembly, the Department of
26 State Police shall provide written notice of the requirements

1 of this Section to persons whose Firearm Owner's Identification
2 Cards have been revoked, suspended, or expired and who have
3 failed to surrender their cards to the Department.

4 (g) A person whose Firearm Owner's Identification Card has
5 been revoked and who received notice under subsection (f) shall
6 comply with the requirements of this Section within 48 hours of
7 receiving notice.

8 (Source: P.A. 98-63, eff. 7-9-13.)

9 (430 ILCS 65/8.2 rep.)

10 Section 10. The Firearm Owners Identification Card Act is
11 amended by repealing Section 8.2.

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2

Statutes amended in order of appearance

3

430 ILCS 65/4 from Ch. 38, par. 83-4

4

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

5

430 ILCS 65/9 from Ch. 38, par. 83-9

6

430 ILCS 65/9.5

7

430 ILCS 65/8.2 rep.