



## 102ND GENERAL ASSEMBLY

### State of Illinois

### 2021 and 2022

### HB3661

Introduced 2/22/2021, by Rep. Kelly M. Cassidy

#### SYNOPSIS AS INTRODUCED:

430 ILCS 65/8  
720 ILCS 5/8-4

from Ch. 38, par. 83-8  
from Ch. 38, par. 8-4

Amends the Firearm Owners Identification Card Act. Provides that the Department of State Police shall revoke for one year the Firearm Owner's Identification Card of a card holder who reports to the local law enforcement agency his or her firearms lost or stolen in 3 separate incidents within a 2-year period. Provides that any law enforcement agency that has knowledge that a card holder has reported his or her firearms lost or stolen in 3 separate incidents within a 2-year period shall forthwith forward that information to the Department of State Police. Provides that an "incident" means an occasion in which the card holder's firearm or firearms have been lost or stolen regardless of the number of firearms stolen in the incident and the report of the loss or theft of the firearm or firearms on one occasion shall be considered one incident. Provides that if a law enforcement agency recovers a firearm that had been lost or stolen and has not been previously reported as lost or stolen, the recovery of the firearm shall be considered an incident for the purpose of this provision. Amends the Criminal Code of 2012. Provides that the sentence for attempt to acquire a firearm by use of a revoked Firearm Owner's Identification Card is a Class 4 felony.

LRB102 13311 KMF 18655 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning firearms.

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 8 as follows:

6 (430 ILCS 65/8) (from Ch. 38, par. 83-8)

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

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

16 (b) This subsection (b) applies through the 180th day  
17 following the effective date of this amendatory Act of the  
18 101st General Assembly. A person under 21 years of age who  
19 does not have the written consent of his parent or  
20 guardian to acquire and possess firearms and firearm  
21 ammunition, or whose parent or guardian has revoked such  
22 written consent, or where such parent or guardian does not  
23 qualify to have a Firearm Owner's Identification Card;

1           (b-5) This subsection (b-5) applies on and after the  
2           181st day following the effective date of this amendatory  
3           Act of the 101st General Assembly. A person under 21 years  
4           of age who is not an active duty member of the United  
5           States Armed Forces and does not have the written consent  
6           of his or her parent or guardian to acquire and possess  
7           firearms and firearm ammunition, or whose parent or  
8           guardian has revoked such written consent, or where such  
9           parent or guardian does not qualify to have a Firearm  
10          Owner's Identification Card;

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

13          (d) A person addicted to narcotics;

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

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

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

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

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

9 (i-5) An alien who has been admitted to the United  
10 States under a non-immigrant visa (as that term is defined  
11 in Section 101(a)(26) of the Immigration and Nationality  
12 Act (8 U.S.C. 1101(a)(26))), except that this subsection  
13 (i-5) does not apply to any alien who has been lawfully  
14 admitted to the United States under a non-immigrant visa  
15 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 Government  
21 or the Government's mission to an international  
22 organization having its headquarters in the United  
23 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 States  
5 on official business; or

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

9 (j) (Blank);

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

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

1 922(g)(9) is made under Section 112A-11.1 of the Code of  
2 Criminal Procedure of 1963, an entry by the court of a  
3 judgment of conviction for that offense shall be grounds  
4 for denying an application for and for revoking and  
5 seizing a Firearm Owner's Identification Card previously  
6 issued to the person under this Act;

7 (m) (Blank);

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

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

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

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

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

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

26 (t) A person involuntarily admitted into a mental

1 health facility; or

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

24 The Department of State Police shall revoke for one year  
25 the Firearm Owner's Identification Card of a card holder who  
26 reports to a local law enforcement agency his or her firearms

1 lost or stolen in 3 separate incidents within a 2-year period.  
2 Any law enforcement agency that has knowledge that a card  
3 holder has reported his or her firearms lost or stolen in 3  
4 separate incidents within a 2-year period shall forthwith  
5 forward that information to the Department of State Police. In  
6 this paragraph, an "incident" means an occasion in which the  
7 card holder's firearm or firearms have been lost or stolen  
8 regardless of the number of firearms lost or stolen in the  
9 incident and the report of the loss or theft of the firearm or  
10 firearms on one occasion shall be considered one incident. If  
11 a law enforcement agency recovers a firearm that had been lost  
12 or stolen and has not been previously reported as lost or  
13 stolen, the recovery of the firearm shall be considered an  
14 incident for the purpose of this paragraph.

15       Upon revocation of a person's Firearm Owner's  
16 Identification Card, the Department of State Police shall  
17 provide notice to the person and the person shall comply with  
18 Section 9.5 of this Act.

19 (Source: P.A. 101-80, eff. 7-12-19.)

20       Section 10. The Criminal Code of 2012 is amended by  
21 changing Section 8-4 as follows:

22       (720 ILCS 5/8-4) (from Ch. 38, par. 8-4)

23       Sec. 8-4. Attempt.

24       (a) Elements of the offense.



1           A person commits the offense of attempt when, with intent  
2 to commit a specific offense, he or she does any act that  
3 constitutes a substantial step toward the commission of that  
4 offense.

5           (b) Impossibility.

6           It is not a defense to a charge of attempt that because of  
7 a misapprehension of the circumstances it would have been  
8 impossible for the accused to commit the offense attempted.

9           (c) Sentence.

10          A person convicted of attempt may be fined or imprisoned  
11 or both not to exceed the maximum provided for the offense  
12 attempted but, except for an attempt to commit the offense  
13 defined in Section 33A-2 of this Code:

14           (1) the sentence for attempt to commit first degree  
15 murder is the sentence for a Class X felony, except that

16           (A) an attempt to commit first degree murder when  
17 at least one of the aggravating factors specified in  
18 paragraphs (1), (2), and (12) of subsection (b) of  
19 Section 9-1 is present is a Class X felony for which  
20 the sentence shall be a term of imprisonment of not  
21 less than 20 years and not more than 80 years;

22           (B) an attempt to commit first degree murder while  
23 armed with a firearm is a Class X felony for which 15  
24 years shall be added to the term of imprisonment  
25 imposed by the court;

26           (C) an attempt to commit first degree murder

1 during which the person personally discharged a  
2 firearm is a Class X felony for which 20 years shall be  
3 added to the term of imprisonment imposed by the  
4 court;

5 (D) an attempt to commit first degree murder  
6 during which the person personally discharged a  
7 firearm that proximately caused great bodily harm,  
8 permanent disability, permanent disfigurement, or  
9 death to another person is a Class X felony for which  
10 25 years or up to a term of natural life shall be added  
11 to the term of imprisonment imposed by the court; and

12 (E) if the defendant proves by a preponderance of  
13 the evidence at sentencing that, at the time of the  
14 attempted murder, he or she was acting under a sudden  
15 and intense passion resulting from serious provocation  
16 by the individual whom the defendant endeavored to  
17 kill, or another, and, had the individual the  
18 defendant endeavored to kill died, the defendant would  
19 have negligently or accidentally caused that death,  
20 then the sentence for the attempted murder is the  
21 sentence for a Class 1 felony;

22 (2) the sentence for attempt to commit a Class X  
23 felony is the sentence for a Class 1 felony;

24 (3) the sentence for attempt to commit a Class 1  
25 felony is the sentence for a Class 2 felony;

26 (4) the sentence for attempt to commit a Class 2

1 felony is the sentence for a Class 3 felony; ~~and~~  
2 (4.1) the sentence for attempt to commit a violation  
3 of paragraph (1) of subsection (a) of Section 2 of the  
4 Firearm Owners Identification Card Act by use of a revoked  
5 Firearm Owner's Identification Card is a Class 4 felony;  
6 and  
7 (5) the sentence for attempt to commit any felony  
8 other than those specified in items (1), (2), (3), ~~and~~  
9 (4), and (4.1) of this subsection (c) is the sentence for a  
10 Class A misdemeanor.

11 (Source: P.A. 96-710, eff. 1-1-10.)