



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB5766

Introduced 11/16/2022, by Rep. Deb Conroy, Bob Morgan, Robyn Gabel, Jennifer Gong-Gershowitz, Kathleen Willis, et al.

SYNOPSIS AS INTRODUCED:

430 ILCS 65/8
430 ILCS 65/8.1

from Ch. 38, par. 83-8
from Ch. 38, par. 83-8.1

Amends the Firearm Owners Identification Card Act. Provides that a minor who causes or attempts to cause physical self-harm or harm to another is subject to the denial of an application for or the revocation and seizure of a Firearm Owner's Identification Card. Provides that until the age of 24 years, such a person is presumed to be a person whose mental condition is of such a nature that it poses a clear and present danger. Provides that a physician, clinical psychologist, qualified examiner, law enforcement official, school administrator, or other person who has knowledge of a minor causing or attempting to cause physical self-harm or harm to another shall report the incident to the Department of Human Services. Effective immediately.

LRB102 28234 RJT 40059 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 1. This Act may be referred to as the FOID White
5 Flag Act.

6 Section 5. The Firearm Owners Identification Card Act is
7 amended by changing Sections 8 and 8.1 as follows:

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

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

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

18 (b) This subsection (b) applies through the 180th day
19 following July 12, 2019 (the effective date of Public Act
20 101-80) ~~this amendatory Act of the 101st General Assembly.~~

21 A person under 21 years of age who does not have the
22 written consent of his parent or guardian to acquire and

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

5 (b-5) This subsection (b-5) applies on and after the
6 181st day following July 12, 2019 (the effective date of
7 Public Act 101-80) ~~this amendatory Act of the 101st~~
8 ~~General Assembly~~. A person under 21 years of age who is not
9 an active duty member of the United States Armed Forces
10 and does not have the written consent of his or her parent
11 or guardian to acquire and possess firearms and firearm
12 ammunition, or whose parent or guardian has revoked such
13 written consent, or where such parent or guardian does not
14 qualify to have a Firearm Owner's Identification Card;

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

17 (d) A person addicted to narcotics;

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

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

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

10 (f-5) A minor who has caused or attempted to cause
11 physical self-harm or harm to another. There is a
12 rebuttable presumption that a person who is ineligible for
13 a Firearm Owner's Identification Card under this
14 subsection is also ineligible under subsection (f) until
15 the age of 24 years;

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

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

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

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

1 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 Government
7 or the Government's mission to an international
8 organization having its headquarters in the United
9 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 States
17 on official business; or

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

21 (j) (Blank);

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

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

19 (m) (Blank);

20 (n) A person who is prohibited from acquiring or
21 possessing firearms or firearm ammunition by any Illinois
22 State statute or by federal law;

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

1 (p) An adult who had been adjudicated a delinquent
2 minor under the Juvenile Court Act of 1987 for the
3 commission of an offense that if committed by an adult
4 would be a felony;

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

8 (r) A person who has been adjudicated as a person with
9 a mental disability;

10 (s) A person who has been found to have a
11 developmental disability;

12 (t) A person involuntarily admitted into a mental
13 health facility; or

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

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

10 Upon revocation of a person's Firearm Owner's
11 Identification Card, the Illinois State Police shall provide
12 notice to the person and the person shall comply with Section
13 9.5 of this Act.

14 (Source: P.A. 101-80, eff. 7-12-19; 102-538, eff. 8-20-21;
15 102-645, eff. 1-1-22; revised 10-14-21.)

16 (430 ILCS 65/8.1) (from Ch. 38, par. 83-8.1)

17 Sec. 8.1. Notifications to the Illinois State Police.

18 (a) The Circuit Clerk shall, in the form and manner
19 required by the Supreme Court, notify the Illinois State
20 Police of all final dispositions of cases for which the
21 Department has received information reported to it under
22 Sections 2.1 and 2.2 of the Criminal Identification Act.

23 (b) Upon adjudication of any individual as a person with a
24 mental disability as defined in Section 1.1 of this Act or a
25 finding that a person has been involuntarily admitted, the

1 court shall direct the circuit court clerk to immediately
2 notify the Illinois State Police, Firearm Owner's
3 Identification (FOID) department, and shall forward a copy of
4 the court order to the Department.

5 (b-1) Beginning July 1, 2016, and each July 1 and December
6 30 of every year thereafter, the circuit court clerk shall, in
7 the form and manner prescribed by the Illinois State Police,
8 notify the Illinois State Police, Firearm Owner's
9 Identification (FOID) department if the court has not directed
10 the circuit court clerk to notify the Illinois State Police,
11 Firearm Owner's Identification (FOID) department under
12 subsection (b) of this Section, within the preceding 6 months,
13 because no person has been adjudicated as a person with a
14 mental disability by the court as defined in Section 1.1 of
15 this Act or if no person has been involuntarily admitted. The
16 Supreme Court may adopt any orders or rules necessary to
17 identify the persons who shall be reported to the Illinois
18 State Police under subsection (b), or any other orders or
19 rules necessary to implement the requirements of this Act.

20 (c) The Department of Human Services shall, in the form
21 and manner prescribed by the Illinois State Police, report all
22 information collected under subsection (b) of Section 12 of
23 the Mental Health and Developmental Disabilities
24 Confidentiality Act for the purpose of determining whether a
25 person who may be or may have been a patient in a mental health
26 facility is disqualified under State or federal law from

1 receiving or retaining a Firearm Owner's Identification Card,
2 or purchasing a weapon.

3 (d) If a person (i) is determined to pose a clear and
4 present danger to himself, herself, or to others; or (ii) is
5 determined to be a minor who has caused or attempted to cause
6 physical self-harm or harm to another:

7 (1) by a physician, clinical psychologist, or
8 qualified examiner, or is determined to have a
9 developmental disability by a physician, clinical
10 psychologist, or qualified examiner, whether employed by
11 the State or privately, then the physician, clinical
12 psychologist, or qualified examiner shall, within 24 hours
13 of making the determination, notify the Department of
14 Human Services that the person (i) poses a clear and
15 present danger or has a developmental disability; or (ii)
16 is a minor who was observed causing or attempting to cause
17 physical self-harm or harm to another; ~~or~~

18 (2) by a law enforcement official or school
19 administrator, then the law enforcement official or school
20 administrator shall, within 24 hours of making the
21 determination, notify the Illinois State Police that the
22 person (i) poses a clear and present danger; or (ii) is a
23 minor who was observed causing or attempting to cause
24 physical self-harm or harm to another; or ~~or~~

25 (3) by any person not listed in paragraph (1) or (2)
26 who observes a minor causing or attempting to cause

1 physical self-harm or harm to another, then the person
2 shall notify the Department of Human Services of the facts
3 and circumstances of the incident.

4 The Department of Human Services shall immediately update
5 its records and information relating to mental health and
6 developmental disabilities, and if appropriate, shall notify
7 the Illinois State Police in a form and manner prescribed by
8 the Illinois State Police. The Illinois State Police shall
9 determine whether to revoke the person's Firearm Owner's
10 Identification Card under Section 8 of this Act. Any
11 information disclosed under this subsection shall remain
12 privileged and confidential, and shall not be redisclosed,
13 except as required under subsection (e) of Section 3.1 of this
14 Act, nor used for any other purpose. The method of providing
15 this information shall guarantee that the information is not
16 released beyond what is necessary for the purpose of this
17 Section and shall be provided by rule by the Department of
18 Human Services. The identity of the person reporting under
19 this Section shall not be disclosed to the subject of the
20 report. The physician, clinical psychologist, qualified
21 examiner, law enforcement official, ~~or~~ school administrator,
22 or other person making the determination and his or her
23 employer shall not be held criminally, civilly, or
24 professionally liable for making or not making the
25 notification required under this subsection, except for
26 willful or wanton misconduct.

1 (e) The Illinois State Police shall adopt rules to
2 implement this Section.

3 (Source: P.A. 102-538, eff. 8-20-21.)

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.