



Sen. Dan Kotowski

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1 AMENDMENT TO SENATE BILL 940

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 940 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Firearm Owners Identification Card Act is  
5 amended by changing Section 3.1 as follows:

6 (430 ILCS 65/3.1) (from Ch. 38, par. 83-3.1)

7 Sec. 3.1. Dial up system.

8 (a) The Department of State Police shall provide a dial up  
9 telephone system or utilize other existing technology which  
10 shall be used by any federally licensed firearm dealer, gun  
11 show promoter, or gun show vendor who is to transfer a firearm,  
12 stun gun, or taser under the provisions of this Act. The  
13 Department of State Police may utilize existing technology  
14 which allows the caller to be charged a fee not to exceed \$2.  
15 Fees collected by the Department of State Police shall be  
16 deposited in the State Police Services Fund and used to provide

1 the service.

2 (b) Upon receiving a request from a federally licensed  
3 firearm dealer, gun show promoter, or gun show vendor, the  
4 Department of State Police shall immediately approve, or within  
5 the time period established by Section 24-3 of the Criminal  
6 Code of 1961 regarding the delivery of firearms, stun guns, and  
7 tasers notify the inquiring dealer, gun show promoter, or gun  
8 show vendor of any objection that would disqualify the  
9 transferee from acquiring or possessing a firearm, stun gun, or  
10 taser. In conducting the inquiry, the Department of State  
11 Police shall initiate and complete an automated search of its  
12 criminal history record information files and those of the  
13 Federal Bureau of Investigation, including the National  
14 Instant Criminal Background Check System, and of the files of  
15 the Department of Human Services relating to mental health and  
16 developmental disabilities to obtain any felony conviction or  
17 patient hospitalization information which would disqualify a  
18 person from obtaining or require revocation of a currently  
19 valid Firearm Owner's Identification Card.

20 (c) If receipt of a firearm would not violate Section 24-3  
21 of the Criminal Code of 1961, federal law, or this Act the  
22 Department of State Police shall:

23 (1) assign a unique identification number to the  
24 transfer; and

25 (2) provide the licensee, gun show promoter, or gun  
26 show vendor with the number.

1 (d) Approvals issued by the Department of State Police for  
2 the purchase of a firearm are valid for 30 days from the date  
3 of issue.

4 (e) (1) The Department of State Police must act as the  
5 Illinois Point of Contact for the National Instant Criminal  
6 Background Check System.

7 (2) The Department of State Police and the Department of  
8 Human Services shall, in accordance with State and federal law  
9 regarding confidentiality, enter into a memorandum of  
10 understanding with the Federal Bureau of Investigation for the  
11 purpose of implementing the National Instant Criminal  
12 Background Check System in the State. The Department of State  
13 Police shall report the name, date of birth, and physical  
14 description of any person prohibited from possessing a firearm  
15 pursuant to the Firearm Owners Identification Card Act and 18  
16 USC 922(g) and (n) to the National Instant Criminal Background  
17 Check System Index, Denied Persons Files.

18 (f) The Department of State Police shall promulgate rules  
19 not inconsistent with this Section to implement this system.

20 (Source: P.A. 94-6, eff. 1-1-06; 94-353, eff. 7-29-05; revised  
21 8-19-05.)

22 Section 10. The Mental Health and Developmental  
23 Disabilities Confidentiality Act is amended by changing  
24 Section 12 as follows:

1 (740 ILCS 110/12) (from Ch. 91 1/2, par. 812)

2 Sec. 12. (a) If the United States Secret Service or the  
3 Department of State Police requests information from a mental  
4 health or developmental disability facility, as defined in  
5 Section 1-107 and 1-114 of the Mental Health and Developmental  
6 Disabilities Code, relating to a specific recipient and the  
7 facility director determines that disclosure of such  
8 information may be necessary to protect the life of, or to  
9 prevent the infliction of great bodily harm to, a public  
10 official, or a person under the protection of the United States  
11 Secret Service, only the following information may be  
12 disclosed: the recipient's name, address, and age and the date  
13 of any admission to or discharge from a facility; and any  
14 information which would indicate whether or not the recipient  
15 has a history of violence or presents a danger of violence to  
16 the person under protection. Any information so disclosed shall  
17 be used for investigative purposes only and shall not be  
18 publicly disseminated. Any person participating in good faith  
19 in the disclosure of such information in accordance with this  
20 provision shall have immunity from any liability, civil,  
21 criminal or otherwise, if such information is disclosed relying  
22 upon the representation of an officer of the United States  
23 Secret Service or the Department of State Police that a person  
24 is under the protection of the United States Secret Service or  
25 is a public official.

26 For the purpose of this subsection (a), the term "public

1 official" means the Governor, Lieutenant Governor, Attorney  
2 General, Secretary of State, State Comptroller, State  
3 Treasurer or member of the General Assembly. The term shall  
4 also include the spouse, child or children of a public  
5 official.

6 (b) The Department of Human Services (acting as successor  
7 to the Department of Mental Health and Developmental  
8 Disabilities) and all public or private hospitals and mental  
9 health facilities as described in clause (3) of this subsection  
10 (b), are required, as hereafter described in this subsection,  
11 to furnish the Department of State Police only such information  
12 as may be required for the sole purpose of determining whether  
13 an individual who may be or may have been a patient is  
14 disqualified because of that status from receiving or retaining  
15 a Firearm Owner's Identification Card under subsections  
16 ~~subsection~~ (e) and (f) of Section 8 of the Firearm Owners  
17 Identification Card Act and 18 USC 922(g) and (n). All public  
18 or private hospitals and mental health facilities shall, in the  
19 form and manner required by the Department, provide such  
20 information as shall be necessary for the Department to comply  
21 with the reporting requirements to the Department of State  
22 Police. Such information shall be furnished within 7 ~~30~~ days  
23 after admission to a public or private hospital or mental  
24 health facility or the provision of services to a person  
25 described in clause (2) of this subsection (b). Any such  
26 information disclosed under this subsection shall remain

1 privileged and confidential, and shall not be redisclosed nor  
2 utilized for any other purpose. The method of requiring the  
3 providing of such information shall guarantee that no  
4 information is released beyond what is necessary for this  
5 purpose. In addition, the information disclosed shall be  
6 provided by the Department within the time period established  
7 by Section 24-3 of the Criminal Code of 1961 regarding the  
8 delivery of firearms. The method used shall be sufficient to  
9 provide the necessary information within the prescribed time  
10 period, which may include periodically providing lists to the  
11 Department of Human Services or any public or private hospital  
12 or mental health facility of Firearm Owner's Identification  
13 Card applicants on which the Department or hospital shall  
14 indicate the identities of those individuals who are to its  
15 knowledge disqualified from having a Firearm Owner's  
16 Identification Card for reasons described herein. The  
17 Department may provide for a centralized source of information  
18 for the State on this subject under its jurisdiction.

19 Any person, institution, or agency, under this Act,  
20 participating in good faith in the reporting or disclosure of  
21 records and communications otherwise in accordance with this  
22 provision or with rules, regulations or guidelines issued by  
23 the Department shall have immunity from any liability, civil,  
24 criminal or otherwise, that might result by reason of the  
25 action. For the purpose of any proceeding, civil or criminal,  
26 arising out of a report or disclosure in accordance with this

1 provision, the good faith of any person, institution, or agency  
2 so reporting or disclosing shall be presumed. The full extent  
3 of the immunity provided in this subsection (b) shall apply to  
4 any person, institution or agency that fails to make a report  
5 or disclosure in the good faith belief that the report or  
6 disclosure would violate federal regulations governing the  
7 confidentiality of alcohol and drug abuse patient records  
8 implementing 42 U.S.C. 290dd-3 and 290ee-3.

9 For purposes of this subsection (b) only, the following  
10 terms shall have the meaning prescribed:

11 (1) "Hospital" means only that type of institution  
12 which is providing full-time residential facilities and  
13 treatment for in-patients and excludes institutions, such  
14 as community clinics, which only provide treatment to  
15 out-patients.

16 (2) "Patient" shall mean only a person who is an  
17 in-patient or resident of any hospital, not an out-patient  
18 or client seen solely for periodic consultation unless the  
19 person's mental condition is of such a nature that it poses  
20 a clear and present danger to himself or herself, any other  
21 person or persons or the community. The term "mental  
22 condition" is defined in subsection (f) of Section 8 of the  
23 Firearm Owners Identification Card Act.

24 (3) "Mental health facility" means any public or  
25 private facility that provides mental health services to  
26 persons on an inpatient or outpatient basis.

1           (c) Upon the request of a peace officer who takes a person  
2 into custody and transports such person to a mental health or  
3 developmental disability facility pursuant to Section 3-606 or  
4 4-404 of the Mental Health and Developmental Disabilities Code  
5 or who transports a person from such facility, a facility  
6 director shall furnish said peace officer the name, address,  
7 age and name of the nearest relative of the person transported  
8 to or from the mental health or developmental disability  
9 facility. In no case shall the facility director disclose to  
10 the peace officer any information relating to the diagnosis,  
11 treatment or evaluation of the person's mental or physical  
12 health.

13           For the purposes of this subsection (c), the terms "mental  
14 health or developmental disability facility", "peace officer"  
15 and "facility director" shall have the meanings ascribed to  
16 them in the Mental Health and Developmental Disabilities Code.

17           (d) Upon the request of a peace officer or prosecuting  
18 authority who is conducting a bona fide investigation of a  
19 criminal offense, or attempting to apprehend a fugitive from  
20 justice, a facility director may disclose whether a person is  
21 present at the facility. Upon request of a peace officer or  
22 prosecuting authority who has a valid forcible felony warrant  
23 issued, a facility director shall disclose: (1) whether the  
24 person who is the subject of the warrant is present at the  
25 facility and (2) the date of that person's discharge or future  
26 discharge from the facility. The requesting peace officer or



1 prosecuting authority must furnish a case number and the  
2 purpose of the investigation or an outstanding arrest warrant  
3 at the time of the request. Any person, institution, or agency  
4 participating in good faith in disclosing such information in  
5 accordance with this subsection (d) is immune from any  
6 liability, civil, criminal or otherwise, that might result by  
7 reason of the action.

8 (Source: P.A. 92-738, eff. 7-25-02.)".