

CERTIFICATE OF EMERGENCY AMENDMENT

The Illinois State Police certifies that the attached is a true and correct copy of:

Heading of Part: Firearm Owner's Identification Card Act

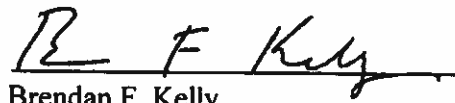
Code Citation: 20 Ill. Adm. Code 1230

Section Involved:
1230.120

which was duly amended by emergency action by this agency.

The reason for the emergency is: These rules are proposed in response to a limitation and public safety concern regarding the administration of clear and present danger reporting. This emergency rule clarifies clear and present danger reporting and allows for retention and use of clear and present danger reporting records insofar as such retention and use is consistent with state and federal law.

Statutory Authority: Implementing and authorized by the Firearm Owner's Identification Card Act [430 ILCS 65].


Brendan F. Kelly
Director

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
CHAPTER II: ILLINOIS STATE POLICE

PART 1230
FIREARM OWNER'S IDENTIFICATION CARD ACT

Section

- 1230.10 Definitions
- 1230.20 Application Procedures
- 1230.25 Electronic Communication
- 1230.30 Duration, Renewal, and Expiration of FOID Card
- 1230.35 Possession and Validity of a FOID Card
- 1230.40 Sponsorship of a Minor
- 1230.45 Firearm Serial Number System to Identify Firearms Reported Stolen
- 1230.50 Return of FOID Card – Applicant
- 1230.60 Return of Revoked FOID Card – Other
- 1230.70 Request for Relief and Appeals
- 1230.80 Judicial Review (Repealed)
- 1230.90 Certification (Repealed)
- 1230.100 Reduction of Remittance (Repealed)
- 1230.110 Retention of Remittance
- 1230.120 Clear and Present Danger Reporting

EMERGENCY

- 1230.EXHIBIT A Application for Firearm Owner's Identification Card (Form FOID-1.2)
(Repealed)
- 1230.EXHIBIT B Certification (Repealed)

AUTHORITY: Implementing and authorized by the Firearm Owners' Identification Card Act [430 ILCS 65].

SOURCE: Filed March 8, 1973; codified at 7 Ill. Reg. 9557; amended at 8 Ill. Reg. 21306, effective October 10, 1984; recodified from the Department of Law Enforcement to the Department of State Police at 10 Ill. Reg. 3279; amended at 17 Ill. Reg. 18856, effective October 18, 1993; amended at 22 Ill. Reg. 16629, effective September 8, 1998; amended at 27 Ill. Reg. 10308, effective June 26, 2003; amended at 38 Ill. Reg. 2301, effective December 31, 2013; emergency amendment at 44 Ill. Reg. 6166, effective April 6, 2020, for a maximum of 150 days; emergency expired September 2, 2020; emergency amendment at 44 Ill. Reg. 15819, effective September 3, 2020, for a maximum of 150 days; emergency expired January 30, 2021; emergency amendment at 45 Ill. Reg. 2763, effective February 19, 2021, for a maximum of 150 days; emergency expired July 18, 2021; amended at 45 Ill. Reg. 11201, effective August 30, 2021; amended at 46 Ill. Reg. 1057, effective December 21, 2021; amended at 46 Ill. Reg. 6798,

effective April 12, 2022; emergency amendment at 46 Ill. Reg. _____, effective _____, for a maximum of 150 days.

**Section 1230.120 Clear and Present Danger Reporting
EMERGENCY**

- a) Physicians, clinical psychologists and qualified examiners shall report determinations of a clear and present danger to the Department by making notification to the Department of Human Services in the form and manner prescribed at Section 6-103.3 of the Mental Health and Developmental Disabilities Code [405 ILCS 5].
- b) Law enforcement officials and school administrators shall report determinations of a clear and present danger directly to the Department. The Department shall make a form and instruction for the reporting available to law enforcement officials and school administrators on its website.
 - 1) Clear and present danger reporting shall be used by the Department to identify persons who meet the definition of "clear and present danger" under 430 ILCS 65/1.1 (2).
 - 2) Clear and present danger reporting shall be made consistent with the Family Educational Rights and Privacy Act (20 USC 1232g) to assist the Department with protecting the health and safety of the public by denying persons who present a clear and present danger from having lawful access to weapons.
- c) The Department shall make the final determination regarding whether a clear and present danger exists for purposes of revoking a FOID Card pursuant to Section 8.1(d) of the Act and ensure that all identified firearms prohibitors are appropriately recorded.
- d) The Department shall maintain records of clear and present danger reporting in accordance with state and federal law.

(Source: Emergency amendment at 46 Ill. Reg. _____, effective _____, for a maximum of 150 days)

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- 1) Heading of the Part: Firearm Owner's Identification Card Act
- 2) Code Citation: 20 Ill. Adm. Code 1230
- 3) Section Number: 1230.120 Emergency Action: Amendment
- 4) Statutory Authority: Implementing and authorized by the Firearm Owner's Identification Card Act [430 ILCS 65].
- 5) Effective Date of Emergency Rule:
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: This rulemaking is not set to expire before the end of the 150-day period.
- 7) Date Filed with the Index Department:
- 8) A copy of the emergency amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: These rules are proposed in response to a limitation and public safety concern regarding the administration of clear and present danger reporting. This emergency rule clarifies clear and present danger reporting and allows for retention and use of clear and present danger reporting records insofar as such retention and use is consistent with state and federal law.
- 10) A Complete Description of the Subjects and Issues Involved: The current rules limit the retention and use of records for persons who do not have a FOID card and have not applied for one, but who have been the subject of a Clear and Present Danger report where that information may have been relevant to a review of the suspect's eligibility upon receipt of a subsequent FOID Card application. This emergency rulemaking allows for the retention and use of these clear and present danger reporting records insofar as retention and use is consistent with state and federal law thereby improving public safety as it relates to firearms possession in Illinois.
- 11) Are there any rulemakings to this Part pending? No
- 12) Statement of Statewide Policy Objectives: These emergency rules are proposed to ensure the Department is implementing the FOID Card system, which was established to create a

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mechanism for law enforcement authorities to identify persons who are prohibited from acquiring or possessing firearms and firearm ammunition, in a manner that promotes and protects the health, safety and welfare of the public.

- 13) Information and questions regarding this rulemaking shall be directed to:

Ms. Kelly M. Griffith
Acting Chief Legal Counsel
Illinois State Police
801 South 7th Street, Suite 1000-S
Springfield, Illinois 62703

(217) 782-7658

The full text of the Emergency Amendment begins on the next page:

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 - 1) Clear and present danger reporting shall be used by the Department to identify persons who meet the definition of "clear and present danger" under 430 ILCS 65/1.1 (2)~~pose an actual, impending, or imminent threat of substantial bodily harm to themselves or another person that is articulable and significant or who will be likely to act in a manner dangerous to public safety or contrary to the public interest if they were granted access to a weapon.~~
 - 2) Clear and present danger reporting shall be made consistent with the Family Educational Rights and Privacy Act (20 USC 1232g) to assist the Department with protecting the health and safety of the public by denying persons who present a clear and present danger from having lawful access to weapons.
- c) The Department shall make the final determination regarding whether a clear and present danger exists for purposes of revoking a FOID Card pursuant to Section 8.1(d)&(f) of the Act and ensure that all identified firearms prohibitors are appropriately recorded.
- d) The Department shall maintain records of clear and present danger reporting in accordance with state and federal law~~a record of those persons who are~~

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~~determined to present a clear and present danger for the purpose of denying or revoking a FOID Card pursuant to Section 8(f) of the Act but shall not maintain a record of those persons who are not determined to present a clear and present danger for these purposes.~~

(Source: Emergency amendment at 46 Ill. Reg. _____, effective _____, for a maximum of 150 days)