



Illinois Health and Hospital Association

FOID Card Act Changes and Mandated Hospital Reporting

November 1, 2018

Firearm Owner Identification Card (FOID) 2018

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Illinois Department of Human Services

James T. Dimas, Secretary



State of Illinois

Introduction of FOID – 1960's

- Illinois enacted the Firearm Owners Identification Card Act in 1967, effective July 1, 1968 to provide a system of identifying persons who are not qualified to acquire or possess firearms and firearm ammunition within the State of Illinois.
- Illinois State Police given responsibility of administering the Act.

- Prohibited persons who had been in a mental institution in the past 5 years
- Prohibited person whose mental condition is of such a nature that it poses a clear and present danger to the applicant, any other person or persons or the community;
 “Mental condition” means a state of mind manifested by violent, suicidal, threatening or assaultive behavior.

- State Police and Department of Mental Health and Developmental Disabilities ran computer matches of FOID applicants and cardholders against list of persons admitted to State Hospitals
- State Police checked with private hospitals individually on individual cases.



- In 1988 – Laurie Dann went to a school in Winnetka, killed a student, wounded five other students prior to committing suicide.
- She was able to purchase a firearm despite a history of treatment in private facilities.

FOID – 1989

- In 1989 – Public Act 86-922 amended the Mental Health and Developmental Disabilities Confidentiality Act to require private hospitals to report to the Department persons who were admitted to “mental health” certified beds.
- The Department would then be required to report “matches” to the Department of State Police.

Concealed Carry and FOID

- In 2013—Public Act 98-63 was passed creating concealed carry of firearms and extensively revised the Firearm Owners Identification Card Act.
- Added and refined definitions in the FOID Act for clarity.
- Made changes in reporting time by hospitals of admissions and discharges from 30 days to 7 days
- Made changes in reporting time by clinicians to 24 hours
- Made changes to the Mental Health and Developmental Disabilities Code and the Mental Health and Developmental Disabilities Confidentiality Act to conform to changes in the FOID Act.
- Maintained reporting to the State Police by school administrators, local police and the courts of various information.



Facility reporting

- Who has to report?
- What has to be reported?
- Liability
- Reporting



Who?

- “Mental health facility” means any licensed private hospital or hospital affiliate, institution, or facility, or part thereof, and any facility, or part thereof, operated by the State or a political subdivision thereof which provide treatment of persons with mental illness and includes all hospitals, institutions, clinics, evaluation facilities, mental health centers, colleges, universities, long-term care facilities, and nursing homes, or parts thereof, which provide treatment of persons with mental illness whether or not the primary purpose is to provide treatment of person with mental illness. (FOID Act, Sec 1.1)



What?

- Mental Health Facilities are required to report to DHS within 7 days of admission of persons prohibited under (e), (f), (g), (r), (s) or (t) of the FOID Act. [MHDD Confidentiality Act, 740 ILCS 110/12 (b)]

- From FOID Act, Sec 8

(e) A person who had been a patient of a mental health facility **within the past 5 years** or has been a patient in a mental health facility **more than 5 years ago** who has not received the certification required under subsection (u) of this section.

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

(g) A person who is intellectually disabled;

(r) A person who has been adjudicated as mentally disabled person;

(s) A person who has been found to be developmentally disabled;

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

Other than (e) which is a 5 year ban, the others are indeterminate.



- (r) A person who has been adjudicated as a mentally disabled person.

Adjudicated a mentally disabled person (previously “has been adjudicated as a mental defective”). The person is the subject of a determination by a court, board, commission or other lawful authority that the person, as a result of marked subnormal intelligence, or mental illness, mental impairment, incompetency, condition, or disease:

- (1) presents a clear and present danger to himself, herself, or to others;
- (2) lacks the mental capacity to manage his or her own affairs or is adjudicated a disabled person as defined in Section 11a-2 of the Probate Act of 1975;



- (3) is not guilty in a criminal case by reason of insanity, mental disease or defect;
- (3.5) is guilty but mentally ill, as provided in Section 5-2-6 of the Unified Code of Corrections;
- (4) Is incompetent to stand trial in a criminal case;
- (5) Is not guilty by reason of lack of mental responsibility under/ pursuant to Articles 50a and 72b of the Uniform Code of Military Justice, 10 U.S.C. 850a, 876b;
- (6) Is a sexually violent person under subsection (f) of Section 5 of the Sexually Violent Persons Commitment Act;
- (7) Has been found to be a sexually dangerous person under the Sexually Dangerous Persons Act;
- (8) Is unfit to stand trial under the Juvenile Court Act of 1987;

- (9) is not guilty by reason of insanity under the Juvenile Court Act of 1987;
- (10) is subject to involuntary admission as an inpatient as defined in Section 1-119 of the Mental Health and Developmental Disabilities Code;
- (11) is subject to involuntary admission as an outpatient as defined in Section 1-119.1 of the Mental Health and Developmental Disabilities Code;
- (12) is subject to judicial admission as set forth in Section 4-500 of the Mental Health and Developmental Disabilities Code; or
- (13) is subject to the provisions of the Interstate Agreements on Sexually Dangerous Persons Act.

This adjudication information is provided for inclusion in the National Instant Criminal Background Check System administered by the FBI. This is a national prohibitor.



National Instant Criminal Background Check System

- NICS is a point of sale system for determining eligibility to purchase a firearm in the United States of America. Federally licensed firearms dealers are required by law to use the NICS to determine if it is legal to sell a firearm to a prospective purchaser.
- For Illinois, the State Police are the Point Of Contact.



- (e) A person who has been a patient of a mental health facility within the past 5 years or a person who has been a patient in a mental health facility more than 5 years ago who has not received the certification required under subsection (u) of this section.

“Patient” means:

- (1) a person who voluntarily receives mental health treatment as an in-patient or resident of any public or private mental health facility, unless the treatment was solely for an alcohol abuse disorder and no other secondary substance abuse disorder or mental illness; or
- (2) a person who voluntarily receives mental health treatment as an out-patient or is provided services by a public or private mental health facility, and who poses a clear and present danger to himself, herself, or to others. (FOID Act, Sec 1.1)



- As of August 17, 2018 Public Act 100-906 changed the definition of patient.
- "Patient" means:
 - (1) a person who is admitted as an inpatient or resident of a public or private mental health facility for mental health treatment under Chapter III of the Mental Health and Developmental Disabilities Code as an informal admission, a voluntary admission, a minor admission, an emergency admission, or an involuntary admission, voluntarily receives mental health treatment as an in-patient or resident of any public or private mental health facility, unless the treatment was solely for an alcohol abuse disorder and no other secondary substance abuse disorder or mental illness; or
 - (2) a person who voluntarily or involuntarily receives mental health treatment as an out-patient or is otherwise provided services by a public or private mental health facility, and who poses a clear and present danger to himself, herself, or to others.
- Effective 1/1/19



Liability

- Any person, institution, or agency, under this Act, participating in good faith in the reporting or disclosure of records and communications otherwise in accordance with this provision or with rules, regulations or guidelines issued by the Department shall have immunity from any liability, civil, criminal or otherwise, that might result by reason of action. For the purpose of any proceeding, civil, or criminal, arising out of a report or disclosure in accordance with this provision, the good faith of any person, institution, or agency so reporting or disclosing shall be presumed. The full extent of the immunity provided in this subsection (b) shall apply to any person, institution or agency that fails to make a report or disclosure in the good faith believe that the report or disclosure would violate federal regulation governing the confidentiality of alcohol and drug abuse patient records implementing 42 USC 290dd-3 and 290ee-3. [MHDD Confidentiality Act, Sec 12 (b)]



Reporting

- Web Based
- Hospital can submit individually or in a batch process
- Generally done by hospital Health Information Department or MIS
- www.dhs.state.il.us & type FOID in search box



http://www.dhs.state.il.us/page.do?item=37393

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Illinois Firearm Owners Identification (FOID) Mental Health Reporting System



- [About Us - Illinois Firearm Owners Identification \(FOID\) \(pdf\)](#)

About Us

Welcome to the Illinois Department of Human Services (DHS) Firearm Owner's Identification (FOID) Mental Health Reporting System. The FOID Mental Health Reporting System was authorized by the FOID Act (430 ILCS 65)

The Illinois FOID Mental Health Reporting System website provides mandated reporters with 24-hour and immediate access to report an individual that is receiving mental health treatment or is determined to be a clear and present danger, developmentally disabled or intellectually disabled. DHS is responsible for comparing the data reported against the State Police FOID files to identify possible matches. The ISP is then responsible for investigating and processing the application for the FOID card.

On July 9th 2013, Illinois passed HB 183 ([Public Act 098-0062](#)), also known as the Firearm Concealed Carry Act. The Firearm Concealed and Carry Act expands the reporting requirements for healthcare facilities and physicians, clinical psychologists and qualified examiners to include any person that is: adjudicated mentally disabled person; voluntarily admitted to a psychiatric unit; determined to be a "clear and present danger"; and/or determined to be "developmentally disabled/intellectually disabled".

If you are a healthcare facility or individual physician, clinician psychologist or qualified examiner in Illinois you may have responsibilities for reporting mental health information to the DHS.

If you have any questions or concerns, you may contact us at DHS.FOID@illinois.gov

How to Register to Sign-up or Report an Individual

- Visit: <https://foid2.dhs.illinois.gov/foidpublic/foid/>

For more information on FOID Reporting

- Visit: <https://foid2.dhs.illinois.gov/foidpublic/foid/>

Informational Brochures

- [IDHS FOID Mental Health Reporting System Brochure \(English\)](#)
- [IDHS - Sistema de Notificación Sobre Salud Mental Para la Identificación de Dueños de Armas de Fuego \(FOID\) \(Spanish\)](#)

[Video on "How to Register to Sign-up or Report an Individual" - Captioned](#)

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Related Links

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DHS Outlook Webmail

 [Login to DHS FOID Mental Health Reporting System](#)

[QUALIFIED EXAMINER REGISTRATION](#)

[FACILITY REGISTRATION](#)

[PASSWORD RESET](#)

[Illinois State Police FOID Website](#)

Welcome to the Illinois DHS FOID Mental Health Reporting System

Welcome to the Illinois Department of Human Services (DHS) Firearm Owner's Identification (FOID) Mental Health Reporting System. The DHS FOID Mental Health Reporting System was authorized by the FOID Act (430 ILCS 65).

The Illinois DHS FOID Mental Health Reporting System website provides qualified examiners and facilities with 24-hour and immediate access to report an individual that is receiving mental health treatment or is determined to be a clear and present danger, developmentally disabled or intellectually disabled. DHS is responsible for comparing the data reported against the State Police FOID files to identify possible matches. The ISP is then responsible for investigating and processing the application for the FOID card.

On July 9th 2013, Illinois passed HB 183 (Public Act 098-0063), also known as the Firearm Concealed and Carry Act. The Firearm Concealed and Carry Act expands the reporting requirements for healthcare facilities and physicians, clinical psychologists and qualified examiners to include any person that is: adjudicated mentally disabled person; voluntarily admitted to a psychiatric unit; determined to be a "clear and present danger"; and/or determined to be "developmentally disabled/intellectually disabled".

On July 10th, 2015, the Illinois Governor signed PUBLIC ACT 099-0029. For purposes of this Section, "developmentally disabled" means a disability which is attributable to any other condition which results in impairment similar to that caused by an intellectual disability and which requires services similar to those required by intellectually disabled persons. The disability must originate before the age of 18 years, be expected to continue indefinitely, and constitute a substantial disability. This disability results in the professional opinion of a physician, clinical psychologist, or qualified examiner, in significant functional limitations in 3 or more of the following areas of major life activity:

- (i) self-care;
- (ii) receptive and expressive language;
- (iii) learning;
- (iv) mobility; or
- (v) self-direction.

Determined to be developmentally disabled by a physician, clinical psychologist, or qualified examiner" means in the professional opinion of the physician, clinical psychologist, or qualified examiner, a person is diagnosed, assessed, or evaluated to be developmentally disabled.

If you are a healthcare facility or individual physician, clinical psychologist or qualified examiner in Illinois you may have responsibilities for reporting mental health information to the DHS.

If you have any questions or concerns, you may contact us at DHS.FOID@Illinois.gov

<https://foia2.dhs.illinois.gov/foia/public/foia/registration/DisplayFacilityRegistrationData.do?sessionControlDisabled=true>

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IDHS IDHS FOID Mental Health Reporting System

Who Reports? What to Report? News and Events Help and FAQ's About Us

Contact Us: DHS.FOID@illinois.gov

Facility Registration

Please provide the information below:

*Facility Name:

*Facility Type:

*Address:

Address 2:

*City: *State: *Zip: -

Administrator Information:

*First Name: Middle Name: *Last Name:

*Phone: () - Ext:

*E-Mail Address:

*Confirm E-Mail Address:

Note: Your E-Mail address will be your User ID

Check here to retain Administrator Information for Primary Contact.

Primary Contact Information:

*First Name: Middle Name: *Last Name:

*Phone: () - Ext:

*E-Mail Address:

*Confirm E-Mail Address:

Note: Your E-Mail address will be your User ID

*Please enter security code **876165** in this text box: -->

Help and FAQ's

- FAQ's
- Special Cases
- Legislation
- User Manual
- Record Layout
- Brochure
- Videos

Facilities Help

Qualified Examiners Help

Clinician Reporting

- Who has to report?
- What has to be reported?
- When does it have to be reported?
- Liability
- Reporting



Who?

- Physician – licensed under the Medical Practice Act of 1987
- Clinical Psychologist – licensed under the Clinical Psychologist Licensing Act
- Qualified Examiner – as defined in the Mental Health and Developmental Disabilities Code

- (405 ILCS 5/1-122) (from Ch. 91 ½, par.1-122)
Sec. 1-122. Qualified examiner. “Qualified examiner” means
a person who is:

(a) a clinical social worker as defined in this Act,

(405) ILCS 5/1-122.1) (from Ch. 91 ½, par. 1-122.1)

Sec. 1-122.1. “Clinical social worker” means a person who (1) has a master’s or doctoral degree in social work from an accredited graduate school of social work and (2) has at least 3 years of supervised post-master’s clinical social work practice which shall include the provision of mental health services for the evaluation, treatment and prevention of mental and emotional disorders.

- A social worker who is a qualified examiner shall be a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act.



- (b) a registered nurse with a master's degree in psychiatric nursing who has 3 years of clinical training and experience in the evaluation and treatment of mental illness which has been acquired subsequent to any training and experience which constituted a part of the degree program,

- (c) a licensed clinical professional counselor with a master's or doctoral degree in counseling or psychology or a similar master's or doctorate program from a regionally accredited institution who has at least 3 years of supervised post-master's clinical professional counseling experience that includes the provision of mental health services for the evaluation, treatment, and prevention of mental and emotional disorders, or

- (d) a licensed marriage and family therapist with a master's degree in marriage and family therapy from a regionally accredited educational institution or a similar master's program or from a program accredited by either the Commission on Accreditation from Marriage and Family Therapy or the Commission on Accreditation for Counseling Related Educational Programs, who has at least 3 years of supervised post-master's experience as a marriage and family therapist that includes the provision of mental health services for the evaluation, treatment, and prevention of mental and emotional disorders.

What?

- Determination of Developmental Disabilities
- Clear and Present Danger
- Both terms as defined in the Firearm Owners Identification Card Act

Developmental Disabilities

Person with a developmental disability" means a person with a disability which is attributable to any other condition which results in impairment similar to that caused by an intellectual disability and which requires services similar to those required by persons with intellectual disabilities. The disability must originate before the age of 18 years, be expected to continue indefinitely, and constitute a substantial disability. This disability results, in the professional opinion of a physician, clinical psychologist, or qualified examiner, in significant functional limitations in 3 or more of the following areas of major life activity:

- (i) self-care;
- (ii) receptive and expressive language;
- (iii) learning;
- (iv) mobility; or
- (v) self-direction.



- If a person [...] is determined to be developmentally disabled by a physician, clinical psychologist, or qualified examiner, **whether employed by the State or privately**, then the physician, clinical psychologist, or qualified examiner shall, within 24 hours of making the determination, notify the Department of Human Services that the person poses a clear and present danger. [FOID Act, Sec 8.1 (d)]

FOID Act, Sec 8.1 (d)

- If a person [...] is determined to be developmentally disabled by a physician, clinical psychologist, or qualified examiner, **whether employed by the State or privately**, then the physician, clinical psychologist, or qualified examiner shall, **within 24 hours** of making the determination, notify the Department of Human Services that the person poses a clear and present danger.

Mental Health Code Sec. 6-103.2

- Sec. 6-103.2. Developmental disability; notice. If a person **14 years old or older** is determined to be a person with a developmental disability by a physician, clinical psychologist, or qualified examiner, the physician, clinical psychologist, or qualified examiner shall notify the Department of Human Services **within 7 days** of making the determination that the person has a developmental disability.



Clear and Present Danger

- “Clear and present danger” means a person who:
 - Communicates a serious threat of physical violence against a reasonably identifiable victim or poses a clear and imminent risk of serious physical injury to himself, herself, or another person as determined by a physician, clinical psychologist, or qualified examiner; or
 - Demonstrates threatening physical or verbal behavior, such as violent, suicidal, or assaultive threats, actions, or other behavior, as determined by a physician, clinical psychologist, qualified examiner, school administrator, or law enforcement official. (FOID Act, 430 ILCS 65/1.1)



When?

- If a person is determined to pose a clear and present danger to himself, herself, or to others by a physician, clinical psychologist, or qualified examiner, [...] **whether employed by the State or privately**, then the physician, clinical psychologist, or qualified examiner shall, within 24 hours of making the determination, notify the Department of Human Services that the person poses a clear and present danger. [FOID Act, Sec 8.1 (d)]

- If a person is determined to pose a clear and present danger to himself, herself, or to others by a physician, clinical psychologist, or qualified examiner, [...] **whether employed by the State or privately**, then the physician, clinical psychologist, or qualified examiner shall, within 24 hours of making the determination, notify the Department of Human Services that the person poses a clear and present danger. [FOID Act, Sec 8.1 (d)]
- Sec. 6-103.3. Clear and present danger; notice. If a person is determined to pose a clear and present danger to himself, herself, or to others by a physician, clinical psychologist, or qualified examiner, **whether employed by the State, by any public or private mental health facility or part thereof**, or by a law enforcement official or a school administrator, then the physician, clinical psychologist, qualified examiner shall notify the Department of Human Services and a law enforcement official or school administrator shall notify the Department of State Police, within 24 hours of making the determination that the person poses a clear and present danger. (MHDD Code, Sec. 6-103.3)



Clear and Present-comparisons

- **Mental condition**
 - manifested by violent, suicidal, threatening, or assaultive behavior or reported behavior
- **Reasonable belief**
- **poses a clear and present or imminent danger to the patient, any other person or the community**

Duty to Warn

- **Duty to Warn (Tarasoff Warning)**
 - Patient communication to clinician
 - Reasonably identified person
 - Threat of serious harm

- MHDD Code Section 6-103
- (b) There shall be no liability on the part of, and no cause of action shall arise against, any person who is a physician, clinical psychologist, or qualified examiner based upon that person's failure to warn of and protect from a recipient's threatened or actual violent behavior except where the recipient has communicated to the person a serious threat of physical violence against a reasonably identifiable victim or victims. Nothing in this Section shall relieve any employee or director of any residential mental health or developmental disabilities facility from any duty he may have to protect the residents of such a facility from any other resident.
- (c) Any duty which any person may owe to anyone other than a resident of a mental health and developmental disabilities facility shall be discharged by that person making a reasonable effort to communicate the threat to the victim and to a law enforcement agency, or by a reasonable effort to obtain the hospitalization of the recipient.

- MHDD Confidentiality Act
- Sec. 11. Disclosure of records and communications. Records and communications may be disclosed:
 - (viii) when, and to the extent, in the therapist's
 - sole discretion, disclosure is necessary to warn or protect a specific individual against whom a recipient has made a specific threat of violence where there exists a therapist-recipient relationship or a special recipient-individual relationship;

Civil Commitment

- **Civil Commitment – MHDD Code Sec. 1-119**
- **Person with mental illness and due to illness is**
 - (1) A person with mental illness who because of his or her illness is reasonably expected, unless treated on an inpatient basis, to engage in conduct placing such person or another in physical harm or in reasonable expectation of being physically harmed;
 - (2) A person with mental illness who because of his or her illness is unable to provide for his or her basic physical needs so as to guard himself or herself from serious harm without the assistance of family or others, unless treated on an inpatient basis; or

- (3) A person with mental illness who:
 - (i) refuses treatment or is not adhering adequately to prescribed treatment;
 - (ii) because of the nature of his or her illness, is unable to understand his or her need for treatment; and
 - (iii) if not treated on an inpatient basis, is reasonably expected, based on his or her behavioral history, to suffer mental or emotional deterioration and is reasonably expected, after such deterioration, to meet the criteria of either paragraph (1) or paragraph (2) of this Section.

- In determining whether a person meets the criteria specified in paragraph (1), (2), or (3), the court may consider evidence of the person's repeated past pattern of specific behavior and actions related to the person's illness.



Reporting

- Web Based
- Clinician can register and report
- www.dhs.state.il.us & type FOID in search box



DHS > about IDHS > Initiatives >

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Liability

- The physician, clinical psychologist, qualified examiner, law enforcement official, or school administrator making the determination and his or her employer shall not be held criminally, civilly, or professionally liable for making or not making the notification required under this subsection, except for willful or wanton misconduct. [FOID Act, Sec. 8.1(d); MHDD Act, Secs. 6-103.2, 6-103.3]

Questions

- If you have any questions or concerns, you may contact us at DHS.FOID@Illinois.gov





ILLINOIS STATE POLICE

Firearms Services Bureau

- 2.3 million FOID card holders
- 314,929 Concealed Carry License holders
- Prior to 2018, approximately 180,000 FOID applications processed annually. 2018 Begins the 10-year card renewal. Applications will increase to approximately 340,000.

- FOID Stats:

Calendar Yr.	Revocations	Denials
2017	10,020	10,317
2018	8,308	8,467

As of 9/30/2018

- In 2017 - 2,336 Denials related to Mental Health Prohibitors
- In 2017 - 2,274 Revocations related to Mental Health Prohibitors



ILLINOIS STATE POLICE

Contact Information

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Questions?

**Press *1 on your
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Illinois Health and Hospital Association

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