



SUPPORT SB 1966, THE FIX THE FOID ACT

FIX THE FOID

CHIEF CO-SPONSORS: WILLIS - B HERNANDEZ / MORRISON - SIMS

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Illinois has many strong laws in place that prohibit people with violent criminal histories from buying guns. However, the tragic shooting at Henry Pratt Company in Aurora on February 15, 2019 brought to light dangerous gaps in the state law that allowed the shooter, who had a previous felony conviction, easy access to guns. The Fix the FOID Act (SB 1966, Amendments 1,2,and 3) would address many of these gaps, strengthen the FOID system and help ensure that people with violent criminal histories who are prohibited from gun possession are not able to easily evade the law and arm themselves.

OVERVIEW OF CURRENT LAW

Under current Illinois law, individuals seeking to buy a gun must first obtain a Firearm Owners Identification (FOID) Card from the Department of State Police. The process for obtaining a FOID card involves: (1) submitting an application via mail or online attesting to the applicant's eligibility to possess guns and a photo; and (2) completion of a background check by the State Police. A FOID Card is valid for 10 years and an individual is able to buy an unlimited number of guns under the authority of that card. If a FOID Card holder subsequently becomes prohibited from gun possession, State Police sends the individual a notice of revocation of the FOID Card and directs them to give up any guns in their possession and submit a Firearm Disposition Record to State Police confirming that they have done so.¹

WEAKNESSES HIGHLIGHTED BY AURORA SHOOTING

On February 15, 2019, an employee opened fire in the Henry Pratt Company after being terminated, killing five people and injuring 6 others.² The shooter had obtained a FOID Card in January 2014, despite a 1995 aggravated assault conviction in Mississippi that should have caused him to fail the background check. In March 2014, the shooter applied for a concealed carry license for a handgun and submitted his fingerprints to expedite the process, which then turned up the 1995 conviction. State Police denied the carry license application and revoked his FOID Card, sending him a notice that he was required to surrender any firearms in his possession and submit a Firearm Disposition Record indicating that he had complied.³ However, the shooter failed to submit the Firearm Disposition Record to State Police or to surrender his firearms and law enforcement never followed up after the initial letter.⁴

KEY ELEMENTS OF SB 1966, AMENDMENTS 1, 2 and 3

Requiring a point-of-sale background check for all gun sales, including those by an unlicensed seller.

- Under current law, an unlicensed seller must only verify that a prospective buyer has a valid FOID Card, but there is no requirement that a background check be conducted at the time of the sale. SB 1966 would require that unlicensed sales be facilitated by a licensed gun dealer and include a background check.
- The bill includes commonsense exceptions for law enforcement, gunsmiths, loans for shooting at a range or hunting, transfers through an estate, and buyback programs.
- Requiring a background check for every gun sale is the foundation of a strong and effective gun violence prevention policy and a valuable tool to help reduce illegal firearm trafficking. For example, a 2009 study found intrastate gun trafficking was 48% lower in cities in states that regulated unlicensed handgun sales.⁵

Requiring FOID applicants to submit fingerprints as part of their application

- Requiring that FOID applicants submit fingerprints will help ensure that an accurate criminal history can be ascertained at the time of the application.⁶ Including fingerprints as part of a purchaser application, in addition to requiring that the application be completed in-person, has shown to be effective at reducing gun violence. For example, Connecticut's Permit to Purchase handgun licensing system, which requires an in-person application, fingerprinting, and safety training, and limits the validity of the license to only 5 years, was linked to a reduction in gun homicides by 40 percent during the 10-year span the law was implemented.⁷

Fees

- Sets the FOID card fee to \$20 for both new and renewal applications. \$15 of FOID card fee shall go to the State Police Firearm Services Fund and \$5 shall go to the State Police Revocation Reimbursement Fund.
- Caps the live scan fingerprint vendor price to \$30.

Amending the Mental Health Reporting Fund (a fund receiving money from Concealed Carry License fees)

- States that any surplus funds beyond what is necessary for compliance shall be allocated annually in equal parts to **community-based mental health services aimed at reducing gun violence and school-based mental health grants**. Currently the fund states that surplus money should be used by DHS for mental health treatment programs, but it has not been used for that purpose and sits unused.
- Adds clarifying language to the Mental Health Reporting Fund that **mental health reporting includes reporting to the National Instant Criminal Background Check System (NICS)**.

Requiring action by Illinois State Police (ISP) to remove guns once a FOID Card is revoked

- Create ISP led task force with mandated ISP enforcement, prioritizing certain "clear and present danger" revocations. Task Fund for the task force to come from the Revocation Enforcement Fund.
- Require ISP to send out revocation notices within 7 business days.

- Require Firearm Disposition Records to be filled out by firearm transferees.
- Current enforcement of the FOID revocation law is extremely lax. According to Illinois State Police, in 2018 10,818 FOID cards were revoked but only 2,616 Firearm Disposition Records were received and only 3,469 FOID cards were returned to law enforcement.⁸

Reducing the FOID Card duration from 10 years to 5 years.

Illinois is 1 of only 2 states whose license to purchase firearms is valid for 10 years.⁹

- Shorter license durations, coupled with other measures like in-person applications and fingerprinting, are tied to lower levels of gun violence.¹⁰
- Shorter license durations also require persons seeking to purchase firearms to undergo background checks more often, enabling the licensing system to reduce the risk of people who become prohibited after obtaining a FOID card from using their card to purchase firearms from unlicensed sellers.

Improved In-Court Enforcement

- Clean up convictions section to enumerate when revocations are required.
- Update both bail and conviction sections to account for new Firearm Disposition Records requirements, the new transfer provisions that were included in the Firearm Restraining Orders Act, and the new universal background check provisions.
- Court ordered revocations of firearms as a bond condition for felony indictments pending convictions

Improving Information-Sharing

- Create the Law enforcement Prohibited Persons Portal so that revocation information can be available in real time to law enforcement entities.
- ISP must make effort to have the portal available on Law Enforcement Automated Data System (LEADS.)

Effective date 180 days on the provision requiring Illinois State Police to update the back of FOID cards to reflect the changes in this Act.

1 Giffords Law Center, "Licensing of Gun Owners & Purchasers in Illinois," available at <https://lawcenter.giords.org/licensing-of-gun-owners-or-purchasers-in-illinois/>.

2 Madeline Holcombe, "Aurora gunman opened fire on his coworkers as soon as he lost his job," CNN, February 18, 2019, available at <https://www.cnn.com/2019/02/17/us/aurora-shooting-termination/index.html>.

3 Illinois State Police, "Illinois State Police Provide Additional Information Related to the FOID Process and Gary Martin," available at <http://www.isp.state.il.us/media/pressdetails.cfm?ID=1019>.

4 Ben Bradley, "Aurora shooter's FOID card was revoked; gun never confiscated," WGN9, February 16, 2019, available at <https://wgntv.com/2019/02/16/aurora-shooters-foid-card-was-revoked-gun-never-confiscated/>; Illinois State Police, "Illinois State Police Provide Additional Information Related to the FOID Process and Gary Martin," available at <http://www.isp.state.il.us/media/pressdetails.cfm?ID=1019>.

5 Daniel W. Webster, Jon S. Vernick, and Maria T. Bulzacchelli, "Effects of State-Level Firearm Seller Accountability Policies on Firearms Tracking," *Journal of Urban Health: Bulletin of the New York Academy of Medicine* 86 (4) (2009): 525-537, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2704273/>.

6 Illinois State Police, "FOID Frequently Asked Questions: What do I need to Complete My Application," available at <https://www.ispsfb.com/Public/FAQ.aspx>.

7 Rudolph KE, Stuart EA, Vernick JS, Webster DW. Association Between Connecticut's Permit-to-Purchase Handgun Law and Homicides. *American Journal of Public Health*. 2015;105(8):e49-e54. doi:10.2105/AJPH.2015.302703.

8 Illinois State Police, "Illinois State Police Provide Additional Information Related to the FOID Process and Gary Martin," available at <http://www.isp.state.il.us/media/pressdetails.cfm?ID=1019>.

9 Crifasi, McCourt and Webster; Giffords Law Center, "Licensing: Summary of State Law," available at <https://lawcenter.giords.org/gun-laws/policy-areas/gun-owner-responsibilities/licensing/#state>.

10 Rudolph KE, Stuart EA, Vernick JS, Webster DW. Association Between Connecticut's Permit-to-Purchase Handgun Law and Homicides. *American Journal of Public Health*. 2015;105(8):e49-e54. doi:10.2105/AJPH.2015.302703.