



# FIREARM PROHIBITORS AND RECORDS IMPROVEMENT TASK FORCE 2023 REPORT



# **FIREARM PROHIBITORS AND RECORDS IMPROVEMENT TASK FORCE 2023 REPORT**

A REPORT TO THE ILLINOIS GOVERNOR  
AND GENERAL ASSEMBLY

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# TASK FORCE MEMBERSHIP

Firearm Prohibitors and Records Improvement Task Force Members include:

*Executive Director of the Illinois Criminal Justice Information Authority, who shall serve as Chair:*

Delrice Adams

*Director of the Illinois State Police, or his or her designee:*

Colonel Christopher Campbell, Deputy Director, Division of Justice Services

*Secretary of Human Services, or his or her designee:*

Sharon Coleman, Ph.D., Deputy Director, Forensic & Justice Services

*Director of Corrections, or his or her designee:*

Sharon Shipinski, Ph.D., Manager, Planning & Research

Zachary Sarver, Special Operations Coordinator

*Attorney General, or his or her designee:*

Caitlyn McEllis, Senior Policy Counsel

*Director of the Administrative Office of the Illinois Courts, or his or her designee:*

Amy Bowne, Chief Legal Counsel

*A representative of an association representing circuit clerks appointed by the President of the Senate:*

Vacant

*A representative of an association representing sheriffs appointed by the House Minority Leader:*

Jim Kaitschuk, Executive Director, Illinois Sheriff's Association

*A representative of an association representing State's Attorneys appointed by the House Minority Leader:*

Robert Berlin, DuPage County State's Attorney, Illinois State's Attorney's Association

*A representative of an association representing chiefs of police appointed by the Senate Minority Leader:*

James Keegan, Chief of Police for St. Charles, Illinois, Illinois Association of Chiefs of Police

*A representative of an association representing hospitals appointed by the Speaker of the House of Representatives:*

Elizabeth Nelson, Sr. Analyst, Health Policy & Finance, Illinois Health and Hospital Association

*A representative of an association representing counties appointed by the President of the Senate:*

Vacant

*A representative of an association representing municipalities appointed by the Speaker of the House of Representatives.*

Mayor Reggie Freeman, Illinois Municipal League

## BACKGROUND

Section 7.9 of the Illinois Criminal Justice Information Act, [20 ILCS 3930/7.9](#), created the Firearm Prohibitors and Records Improvement Task Force (Task Force). The Illinois Criminal Justice Information Authority (ICJIA) became responsible for administering the Task Force with support from the Illinois State Police (ISP) Division of Justice Services. The full legislation establishing the Task Force can be found in Appendix A. The Task Force is to identify gaps in firearms prohibitor data collection and reporting as well as apply for federal funds from entities that support the reporting of firearms prohibitors. The Task Force is to meet through July 2027 and develop an annual report identifying progress made each year. The objective throughout the convening of this Task Force is to develop a statewide plan for improving gaps or weaknesses in the reporting of firearms prohibitors.

Firearms prohibitors are factors that prohibit the transfer or possession of a firearm or firearm ammunition, a Firearm Owner's Identification (FOID) card, or a concealed carry license. Section 8 of the Firearm Owners Identification Card Act, [430 ILCS 65/8](#), outlines the full list of prohibitors ISP can use to deny or revoke an individual's FOID card. The following is a non-verbatim summary of prohibitors from the legislation:

- A person convicted of a felony under Illinois law or any other jurisdiction.
- A person convicted of domestic battery, aggravated domestic battery, a violation of a protection order, or a similar offense where a firearm was used or possessed.
- A person subject to a firearm-prohibiting court order.
- A person with a narcotics addiction as defined by the legislation.
- A person who was a patient of a mental health facility in the past five years or who was a patient in a mental health facility more than five years prior and did not receive a mental health evaluation certifying that they were not a danger to themselves or others.
- A person with a mental condition who is found to pose a clear and present danger to themselves or others as evidenced by serious threats of violence or threatening physical or verbal behavior.
- A person adjudicated as mentally, intellectually, or developmentally disabled as defined by Illinois law.
- A person under 21 years of age convicted of a misdemeanor or adjudged delinquent, other than for a traffic offense; is not an active duty member of the Armed Forces; does not have written consent from a parent or guardian or the parent or guardian does not qualify for a FOID card; or is subject to a petition filed under Section 5-520 of the Juvenile Court Act of 1987 alleging that the minor is a delinquent minor for the commission of an offense that, if committed by an adult, would be a felony.

Federal law also identifies its own prohibitors, which generally match those used by states. However, some states, such as Illinois, have additional prohibitors compared to the federal law, and some federal prohibitors do not have an accompanying state prohibitor. Relevant federal prohibitors include:

- Individuals with dishonorable discharge from the U.S. Armed Forces.
- Individuals who have renounced their U.S. citizenship.
- Individuals with felony indictments.
- Fugitives from justice (i.e., when an individual has an active warrant and is known to have fled the jurisdiction).

Federal firearms prohibitors were not specifically addressed as part of this year's Task Force objectives, although they were relevant to Task Force discussions and may influence Task Force next steps for 2023-2024.

## PROGRESS

The Task Force met seven times between May 2022 and July 2023. Meetings occurred virtually using Cisco WebEx web conferencing software. Each meeting followed Robert's Rules of Order. This Task Force met the conditions of a public body and, therefore, was subject to the rules of the Open Meetings Act. Members of the public could attend and comment on meetings by calling the number on the publicly posted agendas. Agendas and meetings from each meeting can be found on the [ICJIA website](#).

The framing of this year's report follows the objectives identified by [last year's Firearm Prohibitors Task Force report](#). The objectives in this report were originally developed by ISP in consultation with the Task Force. They are organized here in the order they appear in the previous report. Not every objective was able to be addressed within the seven meetings that occurred. The work of the 2023-2024 Task Force will address remaining objectives as well as new objectives developed this year.

### Inventory of Statutorily Mandated Data Collection

One objective listed in last year's Task Force report was:

***Inventory statutorily mandated firearm and gun violence-related data collection and reporting requirements, along with the agency responsible for collecting these data, and identify gaps in those requirements.***

Section 7.9 of the Illinois Criminal Justice Information Act defines "firearms prohibitor" as "any factor listed in Section 4 of the Firearm Owners Identification Card Act (FOID Act) or Section 24-3 or 24-3.1 of the Criminal Code of 2012 that prohibits a person from transferring or possessing a firearm, firearm ammunition, FOID card, or concealed carry license," 20 ILCS 3930/7.9(a). See the bulleted list on page 3 for a summary of Illinois firearm prohibitors listed in these sections. Data collection and reporting requirements associated with these prohibitors appear in the following Illinois statutes:

- ***Criminal Identification Act (20 ILCS 2630/).*** Several of the factors listed in Section 4 of the FOID Act prohibit persons from obtaining a FOID card if they have been convicted for certain offenses. Likewise, Sections 24-3 and 24-3.1 of the Criminal Code of 2012 list factors prohibiting the sale, delivery, or possession of a firearm. To prohibit firearm ownership pursuant to these factors, decision-makers must have access to complete and accurate arrest, charge, and disposition information. The Criminal Identification Act includes several sections mandating law enforcement agencies, county sheriffs' offices, county state's attorney's offices, county circuit court clerks' offices, and the Illinois Department of Corrections (IDOC) to submit information to ISP.
- ***Firearm Owners Identification Card Act (430 ILCS 65/).*** Several of the factors listed in Section 4 of the FOID Act prohibit persons from obtaining a FOID card if they have been a patient in a mental facility within the past five years, have a developmental disability, or are a clear and present danger to themselves or others. The FOID Act includes a section

describing required reporting of such persons to ISP with key responsibilities assigned to circuit court clerk's offices and the Illinois Department of Human Services (IDHS).

- ***Mental Health and Developmental Disabilities Code (405 ILCS 5/)***. Two sections (405 ILCS 5/6-103.2 and 405 5/6-103.3) duplicate the FOID Act's description of IDHS' role governing the reporting of persons with a developmental disability or who are a clear and present danger to themselves or others.
- ***Firearms Restraining Order Act (430 ILCS 67/)***. Section 4 of the FOID Act prohibits persons from obtaining or possessing a valid FOID card if they are the respondent in a firearm restraining court order. The Firearms Restraining Order Act includes sections that require circuit court clerks' offices to file a certified copy of every firearm restraining order with the county sheriff's office. In turn, the county sheriff's office must submit a copy to ISP.
- ***Firearm Concealed Carry Act (430 ILCS 66/)***. Section 4 of the FOID Act prohibits persons from obtaining or possessing a valid FOID card if they pose a clear and present danger to themselves or others. ISP is responsible for managing the concealed carry license application process for Illinois. Law enforcement agencies may raise an objection to an application because the applicant is a danger to themselves or others or poses a public safety risk. Thus, concealed carry application objections are a source of information on firearm prohibitors.
- ***Illinois Domestic Violence Act of 1986 – Article II (750 ILCS 60/214)***. Section 4 of the FOID Act prohibits persons from obtaining or possessing a valid FOID card if they are subject to an order of protection prohibiting them from possessing a firearm. Article II of the Illinois Domestic Violence Act of 1986 requires law enforcement agencies to mail to ISP the suspended or revoked FOID cards of respondents subject to an order of protection.

Each of these statutes includes one or more sections that describe firearm prohibitor data collection and reporting requirements. These sections are listed in the table below (with the exception of sections in the Mental Health and Developmental Disabilities Code that overlap extensively with sections in the FOID Act). Gaps and issues associated with these data collection and reporting requirements are described in the *Reporting Gaps and Needs* section below.



## Firearm Prohibitor Data Collection and Reporting

Statutory Section(s)	Requirement	Responsible Agencies
<b>Criminal Identification Act</b>		
20 ILCS 2630/2.1(a) 20 ILCS 2630/5	Law enforcement agencies provide arrest data to Illinois State Police daily.	<ul style="list-style-type: none"> <li>• Local law enforcement agencies</li> <li>• County sheriffs' offices</li> <li>• Illinois State Police</li> </ul>
20 ILCS 2630/2.1(b)	State's attorney's offices provide charge data to Illinois State Police.	<ul style="list-style-type: none"> <li>• County state's attorney's offices</li> <li>• Illinois State Police</li> </ul>
20 ILCS 2630/2.1(c) 20 ILCS 2630/2.2	Circuit court clerk's offices provide disposition data to Illinois State Police.	<ul style="list-style-type: none"> <li>• County circuit court clerks' offices</li> <li>• Illinois State Police</li> </ul>
20 ILCS 2630/2.1(e)	Illinois Department of Corrections and county sheriff's offices provide corrections data to Illinois State Police.	<ul style="list-style-type: none"> <li>• Illinois Department of Corrections</li> <li>• County sheriffs' offices</li> <li>• Illinois State Police</li> </ul>
<b>Firearm Owner Identification Act</b>		
430 ILCS 65/8.1(a)	Circuit court clerks' offices provide disposition data to Illinois State Police.	<ul style="list-style-type: none"> <li>• County circuit court clerks' offices</li> <li>• Illinois State Police</li> </ul>
430 ILCS 65/8.1(b) 430 ILCS 65/8.1(b-1)	Circuit court clerks' offices report adjudications of individuals as persons with a mental disability and involuntary behavioral health admissions to Illinois State Police.	<ul style="list-style-type: none"> <li>• County circuit court clerks' offices</li> <li>• Illinois State Police</li> </ul>
430 ILCS 65/8.1(c)	Illinois Department of Human Services reports information to Illinois State Police for the purpose of determining whether a person who may be or may have been a patient in a mental health facility is disqualified under State or federal law from receiving or retaining a Firearm Owner's Identification Card or from purchasing a weapon.	<ul style="list-style-type: none"> <li>• Illinois Department of Human Services</li> <li>• Illinois State Police</li> </ul>
430 ILCS 65/8.1(d)	Physicians, clinical psychologists, or qualified examiners report persons who are (1) a clear and present danger to themselves or others or (2) developmentally disabled to Illinois Department of Human Services, which, in turn, reports the information to Illinois State Police.  Law enforcement officials and school administrators report persons who are (1) a clear and present danger to themselves or others or (2) developmentally disabled to Illinois State Police.	<ul style="list-style-type: none"> <li>• Physicians</li> <li>• Clinical psychologists</li> <li>• Qualified examiners</li> <li>• Illinois Department of Human Services</li> <li>• Local law enforcement agencies</li> <li>• County sheriffs' offices</li> <li>• School administrators</li> <li>• Illinois State Police</li> </ul>
430 ILCS 65/8.5	Illinois State Police shall monitor firearm prohibitor databases and correlate them with FOID holders to ensure compliance.	<ul style="list-style-type: none"> <li>• Illinois State Police</li> </ul>
<b>Firearms Restraining Order Act</b>		
430 ILCS 67/50 430 ILCS 67/55	Circuit court clerks' offices file a certified copy of the firearm restraining order with the county sheriff's office. The county sheriff's office provides a copy to the Illinois State Police and enters the order in the Law Enforcement Agencies Data System (LEADS), an electronic system that enables interagency sharing of law enforcement data and information.	<ul style="list-style-type: none"> <li>• County circuit court clerks' offices</li> <li>• County sheriffs' offices</li> <li>• Illinois State Police</li> </ul>
<b>Firearm Concealed Carry Act</b>		
430 ILCS 66/10(f)	The Concealed Carry Licensing Review Board may deny a concealed carry applicant then notify the Illinois State Police of this determination.	<ul style="list-style-type: none"> <li>• Concealed Carry License Review Board</li> <li>• Illinois State Police</li> </ul>
430 ILCS 66/10(i) 430 ILCS 66/10(j)	Illinois State Police shall maintain a database of concealed carry applicants and licensees and	<ul style="list-style-type: none"> <li>• Illinois State Police</li> </ul>

	enter an applicant's information into the database no later than 10 days after the application is completed.	
430 ILCS 66/15(a)	Law enforcement agencies may submit an objection to a license applicant on reasonable suspicion that the applicant is a danger to themselves or others or a threat to public safety. Objections are submitted to Illinois State Police, which forwards them to the Concealed Carry Licensing Review Board for a determination.	<ul style="list-style-type: none"> <li>• Local law enforcement agencies</li> <li>• County sheriffs' offices</li> <li>• Concealed Carry License Review Board</li> <li>• Illinois State Police</li> </ul>
430 ILCS 66/15(b)	Illinois State Police checks the Criminal History Records Information System (CHRI) to determine whether an applicant has 5 or more arrests within the 7 years preceding the date of application or 3 or more arrests within the 7 years preceding the date of application for gang-related offenses.	<ul style="list-style-type: none"> <li>• Illinois State Police</li> </ul>
<b>Illinois Domestic Violence Act of 1986 – Article II</b>		
750 ILCS 60/214(b)(14.5)	Order of protection respondents are required to turn their FOID card over to their local law enforcement agency. The local law enforcement must mail the card to Illinois State Police.	<ul style="list-style-type: none"> <li>• Local law enforcement agencies</li> <li>• Illinois State Police</li> </ul>

## Funding Application

Another objective for this year's Task Force was:

***Identify and research available grants, resources, and revenue to support entities responsible for reporting federal and state firearm prohibitors.***

Two primary federal funding sources address firearms prohibitors. The first, the U.S. Bureau of Justice Statistics, manages the National Criminal History Improvement Program (NCHIP) to help states enhance their criminal history records. NCHIP is intended to support infrastructure that creates better linkages of criminal justice data in the U.S. to increase state efficiency in identifying persons prohibited from acquiring or owning firearms.

The second, also through the U.S. Bureau of Justice Statistics, is a program to improve the Federal Bureau of Investigation's (FBI) National Instant Criminal Background Check System (NICS). Any individual who wishes to purchase a firearm in the U.S. is subject to a background check by NICS. In coordination with NCHIP, the NICS Act Record Improvement Program (NARIP) is another option for states to pursue for federal funding that addresses information gaps between data systems and law enforcement.

ICJIA submitted an application for NCHIP funding to install electronic Livescan systems in Illinois law enforcement agencies that are still using paper-based processes or slower, outdated software. Funds would allow more efficient reporting of criminal history records when conducting firearm sales background checks. In June 2023, ICJIA was awarded \$2,111,806 through the Department of Justice, Bureau of Justice Statistics. The Administrative Office of the Illinois Courts (AOIC) also received \$5,792,877 in NCHIP funding to tackle systemic breakdowns in criminal history data and disposition collection for mental health records.

# CURRENT REPORTING MECHANISMS

The next objective of this year's Task Force was:

***Identify current reporting mechanisms for the following prohibitor categories:***

- ***Clear and present danger reporting***
- ***Firearm restraining order submissions***
- ***Mental health reporting***
- ***Concealed carry law enforcement objections***
- ***Protection orders submissions***

Firearm prohibitor reporting is primarily handled by ISP. ISP compiles information to conduct background checks for FOID and concealed carry license applications through its own data systems or from other state and local agencies. ISP also uses these collected data to contribute to national FBI record systems, such as the FBI Criminal History File and FBI National Fingerprint File.

Two ISP offices handle this reporting. The first is the ISP Firearms Services Bureau, which falls under the ISP Division of Justice Services. The second is the Office of Firearm Safety, which falls under the ISP Director's Office. Day-to-day firearm-related processes—such as issuing FOID cards, revoking or denying FOID cards, issuing concealed carry licenses—are handled by the ISP Firearms Services Bureau. According to ISP Task Force representatives, the exact reporting processes for these prohibitor categories have evolved over time based on statutes or current events. Many of the current reporting mechanisms were updated or reviewed following the Highland Park parade mass shooting.

## **Clear and Present Danger**

Illinois law created clear and present danger reporting to give ISP the power to revoke or deny a FOID card if a person is determined to be an actual, imminent danger to themselves or others (Illinois State Police, 2022). In particular, as [430 ILCS 65/1.1](#) defines it, a clear and present danger is 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. The legal definition and full list of qualified examiners can be found in Appendix B.

Law enforcement and school administrators are required to report a clear and present danger event to ISP within 24 hours of the incident that led to the report. In the past, the ISP Firearm Services Bureau was responsible for handling clear and present danger reporting. Law enforcement officials and school administrators previously submitted paper forms to ISP. In June 2022, this responsibility was transferred to the ISP Office of Firearm Safety. This prohibitor is the

only one for which the Office of Firearm Safety is responsible. In March 2023, a section for clear and present danger reporting was added to the larger online ISP law enforcement portal. The ISP law enforcement portal was originally developed in 2014 to handle law enforcement objections to concealed carry licenses. It has since expanded to allow officers to mark FOID cards as received and destroyed as well as to house firearm disposition records.

Currently, clear and present danger submissions are now entered online, which streamlines the process and increases accuracy from the previous paper-based system. After an individual submits a clear and present danger report online, ISP is notified. Staff of the Office of Firearm Safety then make a determination on clear and present danger events and reach out to the individual who submitted the report to notify if their report led to a FOID card being revoked or denied or if it is still valid.

## **Firearm Restraining Order Submissions**

A firearm restraining order allows law enforcement to temporarily remove firearms, firearms ammunition, firearms parts, and a person's FOID card if a person is determined to be a serious threat to themselves or others (Gatens, 2022). In Illinois, there are two types of firearm restraining orders. The first, an emergency firearm restraining order, can last up to two weeks. This type can be submitted by an individual (the "petitioner") without the accused ("the respondent") present. The petitioner must prove that the respondent is an imminent and dangerous threat. The second type, a plenary firearm restraining order, lasts for not less than six months and up to a year and requires a full court hearing. This type might be chosen if the threat of danger is not immediate, but the respondent is still considered a risk to others. In this case, a respondent can request one hearing to prove they are not a risk of violence to themselves or others, and, if successful, their firearms and firearms accessories are returned. More information on firearm restraining orders in Illinois can be found in (1) [this ICJIA article](#) and (2) [this Illinois Attorney General brochure](#).

Firearm restraining orders start in the courts, which are then responsible for notifying local law enforcement. A judge is responsible for overseeing the process of submitting a firearm restraining order. Sheriffs' offices can receive firearm restraining order paperwork and pass it on to their telecommunicators. These telecommunicators then enter the information into the Law Enforcement Agencies Data System (LEADS). Some agencies or individuals may notify ISP directly that an entry was made, but ISP will see this information was submitted in an online file regardless. ISP can then check an individual's FOID card status and take appropriate action, as needed.

Law enforcement members of the Task Force noted that firearm restraining orders are a recent phenomenon, with legislation only recently being passed in Illinois in 2019. Currently, having an order is recorded as a state prohibitor. The FBI is working on a national file for firearm restraining orders, sometimes referred to in other states as extreme risk protection orders (ERPOs). Eventually, ISP will be able to enter its orders into this national system.

## **Mental Health Reporting**

The Concealed Carry Act and FOID Act both expanded the role of IDHS in mental health reporting. [IDHS' FOID Mental Health Reporting System](#) acts as a liaison between healthcare

providers and law enforcement. Law enforcement includes ISP as well as the Secret Service and the FBI.

Based on the FOIA Act, IDHS summarizes mental health reporters in three categories:

- Healthcare facilities with inpatient or residential mental health treatment programs.
- Healthcare facilities without inpatient or residential mental health treatment programs.
- Individual healthcare professionals: physicians; clinical psychologists; and qualified examiners, who include registered nurses with a master's degree in psychiatric nursing, clinical professional counselors, marriage and family therapists with mental health training, and clinical social workers.

These facilities and individuals are asked to report certain information which includes:

- Persons who were admitted to a mental health facility.
  - Voluntary admission
  - Involuntary admission
  - Adjudicated as mentally disabled
- Persons determined to be intellectually disabled.
- Persons determined to be developmentally disabled.
- Persons determined to be a clear and present danger to themselves or others.

Persons determined to be a clear and present danger must be reported within 24 hours, while the other categories must be reported within 7 days.

ISP has a log in to IDHS' system. Since ISP has a smaller database of mental health admissions than IDHS, ISP sends over a nightly match to IDHS. It includes all the active FOIA card holders and new submissions for FOIA cards. IDHS runs its database against ISP's files for matches, which are then reviewed by IDHS staff for an initial run-through of potential hits. Those potential hits are then sent to ISP, where staff determine whether it is the individual in question. If it is, ISP staff will make a denial or revocation decision.

Reporting on individuals adjudicated as mentally ill comes from a clerk's office. Clerks mail or fax this information into the ISP office, although an email address was recently created for individuals to email ISP directly. Hard copies of this information are sent to NICS. ISP checks semi-annually with the clerks to ensure that they have sent this information or, at minimum, that they are certifying that they the individual has had no adjudications. Preliminary discussions with AOIC and the courts have explored ways to expedite this manual process by replacing the current paper- and email-based submissions with automated processes.

## **Concealed Carry Law Enforcement Objections**

The ISP Firearm Services Bureau handles concealed carry license applications. Local law enforcement agencies that have signed up for ISP's online portal can see all concealed carry applications as they come into ISP. Agencies receive a notification if someone in their jurisdiction has applied for a concealed carry license. If an applicant's community touches more than one agency's jurisdiction, each agency receives a notification. Any law enforcement entity can submit

an objection toward a concealed carry license applicant based upon a reasonable suspicion that the applicant is a danger to themselves or others or is considered a threat to public safety (Illinois State Police, 2020).

The first 30 days of an individual's application are reserved for local law enforcement officials to file an objection, but officials can object at any time until the day of receiving the concealed carry license. Local law enforcement officials can alert ISP of any contact they have had with the individual applying for the concealed carry license. No specific criteria exist under which law enforcement agencies can issue an objection, but criteria may include arrest events and police contact during the application period.

As part of its standard background check process, ISP also investigates an applicant's Criminal History Record Information (CHRI) data. This check is completed in coordination with the ISP Bureau of Identification in Joliet. If an applicant has 7 or more arrests within a certain timeframe or if they have had 5 or more arrests of offenses that can be considered violent or gang-related, then ISP is statutorily obligated to file an objection. Per [430 ILCS 66/20](#), all law enforcement objections are reviewed by the Concealed Carry Licensing Review Board. The Board is tasked with making final decisions on whether an objection will bar an applicant from receiving their concealed carry license. The Board is an independent entity separate from ISP, comprising individuals appointed by the Illinois Governor and approved by the Illinois Senate. In 2022, ISP received over 100,000 concealed carry license applications. Around 3,000 were sent to the Board for objections.

## **Protection Order Submissions**

A protection order—sometimes referred to as an order of protection or restraining order—is a document, signed by a judge, which protects a petitioner from abuse or harassment from a family member or household member. Protection orders can outline specific visitation rules for respondents, force them to attend treatment or counseling, and require them to submit their firearms to law enforcement (Illinois Attorney General, 2023).

Law enforcement and the courts partner on protection order information, and ISP is responsible for maintaining a database of all valid and recorded protection orders. If a protection order is granted by the courts, the courts can require the subject of the protection order to turn over their FOID card and firearms to their local law enforcement agency. Once a FOID card is in their possession, local law enforcement can either mail the FOID card to ISP for safekeeping or mark the FOID card as destroyed or confiscated in the ISP online portal. The FOID card may be returned to the individual once the period for safekeeping has ended.

After a protection order has been granted, the clerk of the issuing judge must file a certified copy of the protection order with either the sheriff or other local law enforcement officials responsible for maintaining ISP records. If the respondent of the protection order is in jail, prison, or on parole, the sheriff must notify IDOC or the Illinois Department of Juvenile Justice (IDJJ) within 48 hours of receiving the protection order.

Any information on protection orders, stalking orders, no contact orders, and firearm restraining orders is matched against ISP's database of FOID card holders. ISP has a dedicated unit to determine if new arrests impact firearm ownership.

## REPORTING GAPS AND NEEDS

ICJIA researchers facilitated a discussion among Task Force members to address the following objectives of last year's report:

***Survey Task Force members to better understand and address possible weaknesses, barriers, or gaps in timely reporting. Review needs and identify potential areas of improvement.***

- ***Solicit input regarding possible deficiencies or pain points in policy, procedure, or technology that could be improved or enhanced.***
- ***Identify and reference relevant projects already completed, underway, or pending by Task Force member agencies.***

Members shared their thoughts during a one-hour meeting and were encouraged to follow up with the research team by email or phone. Information was also gathered from meeting presentations and additional phone calls with members.

### Gaps

Members shared their perspectives on why gaps occur in firearms prohibitor reports.

#### Lack of Awareness

Task Force members cited a lack of awareness of reporting requirements for certain prohibitors. First, ISP identified some gaps specifically for clear and present danger reporting. Not all agencies that are to report are aware of the ISP online portal for reporting clear and present danger events. The Office of Firearm Safety is looking to reach out to specific agencies to increase awareness. So far, it has done over 40 virtual trainings to raise awareness of the portal, particularly to education agencies. However, agencies with few firearm-related incidents may not sign up for the portal unless they feel they need it.

Participants also identified gaps in awareness of mental health reporting. Such gaps in awareness are particularly common for developmental and intellectual disabilities, but they also occur in community-based residential programs for behavioral health, in crisis outpatient situations, and in grant-funded programs. Additional programs, too, may not be reporting mandatory information, but Task Force members felt the Task Force is likely not aware of every program in Illinois to know where those gaps might exist. Still, IDHS' FOID Mental Health Reporting Team has found certain individuals and agencies who are not always aware of the need for mental health reporting, and they include individual healthcare professionals, grant-funded programs, community providers, crisis lines, programs for children admitted to out-of-state treatment facilities, and unidentified private facilities that primarily treat substance use disorders and often treat individuals with mental illness. IDHS has sent mailings to some providers to increase awareness, like public and private hospitals, but still feels more education is needed. New providers or traveling providers from other states, which have increased in Illinois due to the workforce shortage triggered by the COVID-19 pandemic, may also not be aware of Illinois-based reporting requirements.



To address this gap in reporting awareness, IDHS' FOID Mental Health Reporting System would benefit from modifications to streamline reporting, like permitting multi-facility reporting submissions from one designee. This modification alone would centralize reporting so organizations could internally track compliance and training needs. IDHS is currently planning and implementing a new, updated reporting system.

### **Confusion on Mandated Reporting**

Even for agencies and individuals that are aware of firearms prohibitors reporting, Task Force members felt that stakeholders were confused about who is required to report. Specifically, uncertainty surrounds admissions to behavioral health units within correctional facilities and juvenile justice facilities. For instance, some staff at these facilities claim to be exempt. As the IDOC Task Force representative noted, gaps may occur in those locations regarding what is and is not mandatory because jails are not included under state corrections policy. Current legislation also does not address behavioral health admissions from facilities that do not have a specialized mental health unit.

Within these correctional and juvenile justice facilities, mandated reporting is vague about clear and present danger events for individuals evaluated by qualified examiners. Additionally, advanced practice nurses and nurse practitioners are not included in the legislation as qualified examiners.

U.S. Veterans' Health Administration facilities are guided by federal regulations, so it is unclear if staff in these facilities are exempt from mental health reporting in Illinois. ISP agreed that veterans' facilities are in an undefined position for reporting and believed veterans hospitals are not currently reporting any admissions. Reporting requirements for community and grant-funded programs, such as Supported Residential programs, Crisis Residential programs, and Suicide Hotlines, are also unclear.

### **Other Concerns**

Task Force members identified other reasons for gaps or challenges in reporting firearms prohibitors and relevant incidents, including:

- Some healthcare providers may be hesitant to take actions that they perceive could infringe upon a person's rights.
- Persons who present as a clear and present danger when encountered by police may not always continue to be a clear and present danger once evaluated at a hospital or crisis mental health center.
- Incidents in which healthcare providers report a person for a firearms prohibitor can result in providers' names being leaked and, in turn, lead to harassment or threats of violence, particularly for psychiatrists. ISP and IDHS' FOID Mental Health Reporting Team both assured that they do not give information about providers who report to the public. However, an individual may be able to figure out who reported them. For example, if a person has a mental health event and goes to a specific hospital and then receives a copy of their medical report with a provider's name, it would not be impossible to deduce the reporter, even if the information is not confirmed.

## Needs

Task Force members pointed to specific areas where these gaps could be addressed or improved with certain actions.

### Legislative Clarification

Task Force members acknowledged legislation could be clarified or updated to improve firearms prohibitor reporting. IDHS representatives requested clarification and updates on:

- Whether the Firearm Owners Identification Card Act exempts behavioral health units within correctional facilities and juvenile justice facilities from reporting admissions and clear and present danger events.
- Whether, in addition to federal regulations, Illinois' Firearm Owners Identification Card Act applies to the U.S. Veterans' Health Administration.
- Whether the Firearm Concealed Carry Act requires facilities that provide behavioral health care, but do not have a specialized behavioral health unit, to report admissions to IDHS.
- IDHS proposes amending the Mental Health and Developmental Disabilities Code and the Firearm Owners Identification Card Act to add "Nurse Practitioners" and "Advance Practice Nurses" to the definition of "Qualified Examiner."

ISP also weighed in on areas where legislative clarification or improvement would help, citing 18 USC § 922 G1-G9. Felony indictments under Section 922 N prohibit individuals from acquiring firearms, while G1-G9 prohibit individuals from both acquiring and possessing a firearm. In Illinois, 430 ILCS 65/8 N is intended to be a catch-all; any individual prohibited by state or federal law is prohibited from owning a FOID card. However, ISP noted the laws had faced challenges, as Section 922 N only prohibits the acquisition of a firearm under federal law. Law enforcement representatives added that no state prohibitor is in place for individuals who are wanted by the law, whereas federal prohibitors include fugitives from justice. Adding a state prohibitor for this category would be helpful.

Finally, law enforcement officials desired clarification on the Brady Handgun Violence Prevention Act, or the Brady Law, for protection orders. The Brady Law states that licensed firearm importers, manufacturers, or dealers must wait five days before selling or delivering a handgun to an unlicensed person. However, this provision only applies in states that do not have an alternative background check system in place (Bureau of Alcohol, Tobacco, and Firearms, 2021). Illinois' requirements under 430 ILCS 65/8.2 are more expansive. If an individual meets federal code, it goes to a federal database for any state to take action. More clarity is needed on the exact fusion of state and federal rules on firearm prohibitors.

### Collaboration between Agencies

Task Force members identified a need for agency collaboration. Members felt collaboration would be particularly beneficial between the Department of Public Health, Health and Family Services, and IDHS' Division of Mental Health. IDHS' FOID Mental Health Reporting Team felt there was a lack of clarity on their exact role in the reporting process, particularly with ISP.

Further, collaboration between IDHS' FOID Mental Health Reporting Team and the Illinois Department of Financial and Professional Regulation (IDFPR) would be beneficial. IDFPR is responsible for regulating various licensed professions, such as Professional Counseling and Marriage and Family Therapy.

Task Force representatives felt it would be important to create a compliance plan to ensure compliance in these reporting areas. To do so, a compliance team with dedicated resources is needed. Some form of statewide outreach coming from a combination of Task Force member agencies may be helpful.

### **Technology Improvements**

Some members identified specific technological issues that affect their agencies. IDHS representatives noted that their online reporting system is old, and progress on building a new system is slow. IDHS also noted passwords are not automatically reset in their current, outdated system. If an individual is trying to report after business hours but needs to reset their account password, they have to wait until the following morning for approval of their password reset request. Automating this process is not possible in the current Java-based system.

For ISP, moving from paper-based to online processes would streamline the system and allow for fast reciprocity of important data. Their CHRI system is also in the process of being updated.

### **Relevant Projects to Address Gaps and Needs**

The Task Force was charged with identifying relevant projects already completed, underway, or pending by Task Force member agencies.

- The Illinois Association of Chiefs of Police has submitted a grant to increase compliance checks of FOID revocations. They intend to be more proactive in this area.
- The Illinois State's Attorney's Association sent out a letter to hospitals requesting a meeting to educate them on firearm restraining orders and asking for permission to hang posters with this information in emergency rooms. Part of this initiative is to help inform the public on the process for obtaining a firearm restraining order, with the goal of expanding the outreach to schools.
- IDHS is working on a small marketing project to increase awareness of mental health reporting requirements. It is also working on fixes to its current reporting system.
- The Illinois Attorney General's Office provides training and presentations on firearm restraining orders for law enforcement, prosecutors, judges, circuit clerks, victim service providers and advocates, veteran's organizations, mental health professionals, and community members. Training covers who may seek a firearm restraining order, what the firearm restraining order prohibits, and what the procedure is to obtain both an emergency and plenary firearm restraining order. It also covers law enforcement's responsibility under the Firearms Restraining Order Act and practical considerations when requesting a firearm restraining order. The Attorney General's Office also includes firearm restraining order presentations in other trainings, such as its Preventing Targeted Violence trainings and Elder Service Officer trainings. So far this year, the office has

hosted four Zoom firearm restraining order trainings for law enforcement and has trained over 275 people. Upcoming webinars include trainings catering to prosecutors and advocates as along with additional law enforcement trainings.

- The Illinois Attorney General's Office developed a curriculum for training on firearm restraining orders, approved by the Illinois Law Enforcement Training and Standards Board, and coupled it with approved informational materials for law enforcement and constituents on how to obtain firearm restraining orders in Illinois.

## NEXT STEPS FOR THE TASK FORCE

Per 20 ILCS 3930/7.9, the Task Force is responsible for releasing an annual report with findings from the previous year of meetings until it is repealed on July 1, 2027. From 2022 to 2023, the primary goal of the Task Force was identifying the current mechanisms for reporting prohibitors as well as identifying gaps and improvements needed for this reporting.

Based on the findings from this year's Task Force, next steps from 2023 to 2024 should include:

- Determine the most common prohibitors used by the ISP Firearms Services Bureau.
- Develop a reporting compliance and outreach plan in partnership with several Task Force agencies.
- Consider consequences for entities that fail to report. Task Force members suggested mandatory training as a first solution, as some agencies or individuals may not be aware of reporting requirements. Continued failure to report may result in fines, fees, or sanctions.
- Assess capacity for building a website or central webpage to which all agencies that report on firearms prohibitors can refer, presenting information, for example, on where to report, how to report, and what needs to be reported. This webpage could have links to training and other information fliers.
- Receive legislative clarification on several laws related to firearms prohibitors as indicated earlier in this report. Starting June 2023, the Legislative Subcommittee was created to dive deeper into these identified laws and to give specific recommendations for improvements.
- Report back on progress toward an updated mental health reporting system and an updated CHRI system.

## REFERENCES

- Bureau of Alcohol, Tobacco, and Firearms. (2021). *Brady Law*. <https://www.atf.gov/rules-and-regulations/brady-law#:~:text=On%20November%2030%2C%201993%2C%20the,handgun%20to%20an%20unlicensed%20individual.>
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- Illinois State Police. (2022, July 6). *Clear and present danger process information*. <https://isp.illinois.gov/Media/PressReleaseFile/750>

# APPENDIX A: FIREARM PROHIBITORS AND RECORDS IMPROVEMENT TASK FORCE LEGISLATION

(20 ILCS 3930/7.9)

(Section scheduled to be repealed on July 1, 2027)

Sec. 7.9. Firearm Prohibitors and Records Improvement Task Force.

(a) As used in this Section, "firearms prohibitor" means any factor listed in Section 4 of the Firearm Owners Identification Card Act or Section 24-3 or 24-3.1 of the Criminal Code of 2012 that prohibits a person from transferring or possessing a firearm, firearm ammunition, Firearm Owner's Identification Card, or concealed carry license.

(b) The Firearm Prohibitors and Records Improvement Task Force is created to identify and research all available grants, resources, and revenue that may be applied for and used by all entities responsible for reporting federal and State firearm prohibitors to the Illinois State Police and the National Instant Criminal Background Check System. Under the Firearm Owners Identification Card Act, these reporting entities include, but are not limited to, hospitals, courts, law enforcement and corrections. The Task Force shall identify weaknesses in reporting and recommend a strategy to direct resources and revenue to ensuring reporting is reliable, accurate, and timely. The Task Force shall inventory all statutorily mandated firearm and gun violence related data collection and reporting requirements, along with the agency responsible for collecting that data, and identify gaps in those requirements. The Task Force shall submit a coordinated application with and through the Illinois Criminal Justice Information Authority for federal funds from the National Criminal History Improvement Program and the NICS Acts Record Improvement Program. The Firearm Prohibitors and Records Improvement Task Force shall be comprised of the following members, all of whom shall serve without compensation:

- (1) the Executive Director of the Illinois Criminal Justice Information Authority, who shall serve as Chair;
- (2) the Director of the Illinois State Police, or his or her designee;
- (3) the Secretary of Human Services, or his or her designee;
- (4) the Director of Corrections, or his or her designee;
- (5) the Attorney General, or his or her designee;
- (6) the Director of the Administrative Office of the Illinois Courts, or his or her designee;
- (7) a representative of an association representing circuit clerks appointed by the President of the Senate;
- (8) a representative of an association representing sheriffs appointed by the House Minority Leader;
- (9) a representative of an association representing State's Attorneys appointed by the House Minority Leader;
- (10) a representative of an association representing chiefs of police appointed by the Senate Minority Leader;
- (11) a representative of an association representing hospitals appointed by the Speaker of the House of Representatives;
- (12) a representative of an association representing counties appointed by the President of the Senate; and
- (13) a representative of an association representing

municipalities appointed by the Speaker of the House of Representatives.

(c) The Illinois Criminal Justice Information Authority shall provide administrative and other support to the Task Force. The Illinois State Police Division of Justice Services shall also provide support to the Illinois Criminal Justice Information Authority and the Task Force.

(d) The Task Force may meet in person or virtually and shall issue a written report of its findings and recommendations to General Assembly on or before July 1, 2022. The Task Force shall issue an annual report, which shall include information on the state of FOID data, including a review of previous activity by the Task Force to close previously identified gaps; identifying known (or new) gaps; a proposal of policy and practice recommendations to close those gaps; and a preview of expected activities of the Task Force for the coming year.

(e) Within 60 days of the effective date of this amendatory Act of the 102nd General Assembly, the Chair shall establish the Task Force.

(f) This Section is repealed on July 1, 2027.

(Source: P.A. 102-237, eff. 1-1-22.)



## **APPENDIX B: LIST OF QUALIFIED EXAMINERS**

This information was gathered from an IDHS bulletin on the list and definitions of qualified examiners (Illinois Department of Human Services, n.d.).

### **Clinical Psychologist**

A psychologist registered with the Illinois Department of Professional Regulation who meets the following qualifications: (a) has a doctoral degree from a regionally accredited university, college, or professional school, and has two years of supervised experience in health services of which at least one year is postdoctoral and one year is in an organized health service program; or (b) has a graduate degree in psychology from a regionally accredited university or college, and has not less than six years of experience as a psychologist with at least two years of supervised experience in health services. [from 405 ILCS 5/1-103]

### **Clinical Social Worker**

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 postmaster'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. [from 405 ILCS 5/1-122.1] A social worker shall be a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act. [from 405 ILCS 5/1-122]

### **Licensed Clinical Professional Counselor**

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 postmaster's clinical professional counseling experience that includes the provision of mental health services for the evaluation, treatment, and prevention of mental and emotional disorders. [from 405 ILCS 5/1-122]

### **Physician**

A person licensed by the State of Illinois to practice medicine in all its branches and includes any person holding a temporary license, as provided in the Medical Practice Act of 1987. Physician includes a psychiatrist as defined below. [from 405 ILCS 5/1-120]

### **Psychiatrist**

A physician as defined in the first sentence of Section 1-120 who has successfully completed a residency program in psychiatry accredited by either the Accreditation Council for Graduate Medical Education or the American Osteopathic Association. [from 405 ILCS 5/1-121]

### **Registered Nurse**

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. [from 405 ILCS 5/1-122]

**Marriage and Family Therapist**

A licensed marriage and family therapist with a master's or doctoral 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 for Marriage and Family Therapy or the Commission on Accreditation for Counseling Related Educational Programs, who has at least 3 years of supervised postmaster'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. [405 ILCS 5/1-122]