

No. 17-2998

*In The United States Court of Appeals
For the Seventh Circuit*

KEVIN W. CULP, MARLOW DAVIS, FREDDIE REED-DAVIS, DOUGLAS
W. ZYLSTRA, JOHN S. KOLLER, STEVE STEVENSON, PAUL HESLIN,
MARLIN MANGELS, JEANELLE WESTROM, SECOND AMENDMENT
FOUNDATION, INC., ILLINOIS CARRY and ILLINOIS STATE RIFLE
ASSOCIATION,

Plaintiffs-Appellants,

v.

LISA MADIGAN, in her Official Capacity as Attorney General of the State of
Illinois; LEO P. SCHMITZ, in his Official Capacity as Director of the Illinois
State Police, and JESSICA TRAME, as Bureau Chief of the Illinois State
Police Firearms Services Bureau,

Defendants-Appellees.

Appeal from a Judgment of the United States District Court
for the Central District of Illinois
The Hon. Sue E. Myerscough, District Judge
Case No. 3:14-CV-3320

APPELLANTS' BRIEF AND REQUIRED SHORT APPENDIX

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Appellate Court No: 17-2998

Short Caption: Kevin W. Culp, et al v. Lisa Madigan, et al

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Kevin W. Culp, Marlow Davis, Freddie Reed-Davis, Douglas W. Zylstra, John S. Koller, Steve Stevenson,

Paul Heslin, Marlin Mangels, Jeanelle Westrom, Second Amendment Foundation, Inc.,

Illinois Carry, Illinois State Rifle Association

- (2) The names of all law firms whose partners or associates have appeared for the party in the case (including proceedings in the district court or before an administrative agency) or are expected to appear for the party in this court:

Law Firm of David G. Sigale, P.C.

- (3) If the party or amicus is a corporation:

i) Identify all its parent corporations, if any; and

Second Amendment Foundation, Inc. - None; Illinois Carry - None; Illinois State Rifle Association - None

ii) list any publicly held company that owns 10% or more of the party's or amicus' stock:

Second Amendment Foundation, Inc. - None; Illinois Carry - None; Illinois State Rifle Association - None

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APPELLANTS' BRIEF

JURISDICTIONAL STATEMENT

Plaintiffs-Appellants (“Plaintiffs”) seek reversal of the District Court’s grant of summary judgment in favor of the Defendants-Appellees (“Defendants”), and seek declaratory and permanent injunctive relief barring enforcement of the State statute 430 ILCS 66/40, which allows non-residents of Illinois with concealed carry licenses in their home states to apply for a concealed carry license in Illinois, under the Second and Fourteenth Amendments to the United States Constitution, and 42 U.S.C. § 1983. The District Court had jurisdiction over this case pursuant to 28 U.S.C. § 1331, 1343, 2201, 2202 and 42 U.S.C. § 1983.

Plaintiff Second Amendment Foundation, Inc., is a non-profit corporation, organized under the laws of Washington with its principal place of business in Bellevue, Washington. Plaintiff Illinois State Rifle Association is a non-profit corporation, organized under the laws of Illinois with its principal place of business in Chatsworth, Illinois

This Court has jurisdiction over the matter pursuant to 28 U.S.C.

§ 1291, in that on September 19, 2017, the District Court entered an Order which granted Defendants' Motion for summary judgment, and denied Plaintiffs' Motion for summary judgment.

i. The order sought to be reviewed was entered September 19, 2017. Short Appendix ("SA") 1. The accompanying Opinion was entered on September 18, 2017. SA 2-61.

ii. There were no other orders tolling the time in which to appeal.

iii. The Notice of Appeal was filed September 27, 2017. Separate Appendix ("App.") 19.¹

STATEMENT OF ISSUES

1. Does the speculative harm of a hypothetical criminal with a firearm outweigh the Second and Fourteenth Amendment rights of the law-abiding residents of 45 states with concealed carry licenses to apply for a non-resident Illinois concealed carry license?
2. Did the District Court err in granting the Defendants

summary judgment, and denying the Plaintiffs summary judgment and injunctive relief, in its enforcement of 430 ILCS 66/40, which bans all concealed carry license-holders of 45 states from even applying for an Illinois non-resident concealed carry license, for no reason other than fear and speculation?

STATEMENT OF THE CASE

On October 20, 2016, this Court denied Plaintiffs' request for a preliminary injunction. *Culp v. Madigan*, 840 F.3d 400 (7th Cir. 2016) (*Culp I*). Even though Plaintiffs demonstrated irreparable harm, a likelihood of success on the merits, and no legal remedy (since the majority Opinion went right to the balance of harms element, Plaintiffs presume the majority agreed with the District Court that Plaintiffs met these first three factors), this Court weighed the balance of harms in favor of the Defendants. However, this Court noted that "[a] trial in this case may cast the facts in a different light." *Id.* at 403.

Based on *Culp I*, the District Court on September 18-19, 2017,

¹ All references to the Short Appendix will be denoted as "SA," while references

granted the Defendants summary judgment and denied summary judgment to the Plaintiffs, even though the Defendants *still* had not shown any harm, real or potential, from allowing the non-resident CCL applications. All throughout this case, Defendants have only offered speculation and fear. Nonetheless, applying intermediate scrutiny, the District Court found the virtual non-resident CCL application ban “substantially related to Illinois’ important public-safety interest.” SA 3.

However, the statute is just as discriminatory and unfocused as always. Defendants cannot point to a single instance *anywhere* where (1.) harm occurred because someone was allowed to apply for a non-resident CCL, or (2.) harm was prevented because someone was refused the ability to apply for a non-resident CCL.

The Second Amendment right to bear loaded and usable firearms for self-defense purposes, inside and outside of one’s home, has been upheld by this Court. This Court’s ruling in *Moore v. Madigan*, 702 F.3d 933 (7th Cir. 2012), led to the passage of Illinois’s Firearm

to the Separate Appendix will be denoted as “App.”

Concealed Carry Act (430 ILCS 66/1, *et seq.*) (“FCCA”). However, that right to concealed carry is denied to most of the United States. Worse, much of the Country continues to be forbidden from even *applying* for a license.

The issue still before the Court is whether Defendants’ speculative and hypothetical harm, rejected as a justification for the infringement of Second Amendment rights in this Court’s decisions in *Moore*, and *Ezell v. City of Chicago*, 651 F.3d 684 (7th Cir. 2011), nonetheless allows the State to deny the Second Amendment rights of millions of law-abiding persons in 45 states. This case has been couched in terms of “verification,” but it remains the State’s burden to show that the law serves its purpose. Beyond imagination, however, the State has shown nothing.

Because of the potential harm to Plaintiffs and other law-abiding persons from enforcement of the challenged statute, and the lack of harm to public safety from overturning it, the statute must be enjoined.

1. *Illinois's Statute Bars Virtually All Non-Residents from Applying for a Concealed Carry License.*

430 ILCS 66/40 provides in pertinent part:

- (a) For the purposes of this Section, “non-resident” means a person who has not resided within this State for more than 30 days and resides in another state or territory.
- (b) The Department shall by rule allow for non-resident license applications from any state or territory of the United States with laws related to firearm ownership, possession, and carrying, that are substantially similar to the requirements to obtain a license under this Act.
- (c) A resident of a state or territory approved by the Department under subsection (b) of this Section may apply for a non-resident license. The applicant shall apply to the Department and must meet all of the qualifications established in Section 25 of this Act, except for the Illinois residency requirement in item (xiv) of paragraph (2) of subsection (a) of Section 4 of the Firearm Owners Identification Card Act....

According to the Illinois State Police website, “substantially similar” means “the comparable state regulates who may carry firearms, concealed or otherwise, in public; prohibits all who have involuntary mental health admissions, and those with voluntary admissions within the past 5 years, from carrying firearms, concealed or otherwise, in public; reports denied persons to NICS; and participates

in reporting persons authorized to carry firearms, concealed or otherwise, in public through Nlets.”

Since *Culp I*, the Illinois State Police has deemed Arkansas, Mississippi, Texas, and Virginia “substantially similar” for non-resident application purposes. None of the individual Plaintiffs reside in these states.²

720 ILCS 5/24-1 provides in pertinent part:

Sec. 24-1. Unlawful Use of Weapons

- (a) A person commits the offense of unlawful use of weapons when he knowingly:
 - (4) Carries or possesses in any vehicle or concealed on or about his person except when on his land or in his own abode, legal dwelling, or fixed place of business, or on the land or in the legal dwelling of another person as an invitee with that person's permission, any pistol, revolver, stun gun or taser or other firearm. . . ; or...
 - (10) Carries or possesses on or about his person, upon any public street, alley, or other public lands within the corporate limits of a city, village or incorporated town, except when an invitee thereon or therein, for the

² At the time of *Culp I*, the four approved states were Hawaii, New Mexico, South Carolina, and Virginia. The CCL-holders from Hawaii, New Mexico, and South Carolina have since had their licenses revoked despite no individual wrongdoing, and despite paying all Illinois fees and complying with all Illinois requirements.

purpose of the display of such weapon or the lawful commerce in weapons, or except when on his land or in his own abode, legal dwelling, or fixed place of business, or on the land or in the legal dwelling of another person as an invitee with that person's permission, any pistol, revolver, stun gun or taser or other firearm.

- (b) Sentence. A person convicted of a violation of subsection 24-1(a)(1) through (5), subsection 24-1(a)(10), subsection 24-1(a)(11), or subsection 24-1(a)(13) commits a Class A misdemeanor.

720 ILCS 5/24-1.6 provides in pertinent part:

Sec. 24-1.6. Aggravated unlawful use of a weapon

- (a) A person commits the offense of aggravated unlawful use of a weapon when he or she knowingly:
- (1) Carries on or about his or her person or in any vehicle or concealed on or about his or her person except when on his or her land or in his or her abode, legal dwelling, or fixed place of business, or on the land or in the legal dwelling of another person as an invitee with that person's permission, any pistol, revolver, stun gun or taser or other firearm; or
 - (2) Carries or possesses on or about his or her person, upon any public street, alley, or other public lands within the corporate limits of a city, village or incorporated town, except when an invitee thereon or therein, for the purpose of the display of such weapon or the lawful commerce in weapons, or except when on his or her own land or in his or her own abode, legal

dwelling, or fixed place of business, or on the land or in the legal dwelling of another person as an invitee with that person's permission, any pistol, revolver, stun gun or taser or other firearm; and

(3) One of the following factors is present:

(A) the firearm possessed was uncased, loaded and immediately accessible at the time of the offense; or

(B) the firearm possessed was uncased, unloaded and the ammunition for the weapon was immediately accessible at the time of the offense.

(d) Sentence.

(1) Aggravated unlawful use of a weapon is a Class 4 felony; a second or subsequent offense is a Class 2 felony for which the person shall be sentenced to a term of imprisonment of not less than 3 years and not more than 7 years.

A person carrying a concealed handgun in public for self-defense is subject to the above-referenced criminal penalties (with certain inapplicable exceptions) unless the person had a valid Illinois concealed carry license per 720 ILCS 5/24-1.6(3)(A-5),(B-5) and 720 ILCS 5/24-2(a-5).

These Code sections prohibit the Plaintiffs, and residents of the

“other forty five states” from applying to obtain a CCL, and therefore from the public concealed carry of firearms for self-defense.

Illinois’s claimed purpose for this prohibition is illusory, based on all the places non-residents are allowed to possess firearms in Illinois, the ease with which someone from a banned state can move to an allowed state and immediately apply for an Illinois CCL, the inactivity surrounding Illinois CCL holders who leave the State and later return without it affecting their CCL status, and the lack of factual support for the claim that harm may result from allowing law-abiding persons to apply for the non-resident CCL. Therefore, there is no purpose Illinois can offer that passes constitutional muster.

2. The Non-Resident Prohibition’s Impact on the Plaintiffs and Similarly-Situated Non-Residents.

Individual Plaintiffs

Kevin W. Culp is a natural person and a resident of the City of Blairsville, State of Pennsylvania. Culp is an Air Force Colonel who until recently was stationed in Illinois, but is now stationed in Ohio. He is a legal resident of Pennsylvania with a Pennsylvania driver’s license

and Pennsylvania license to carry a concealed weapon, as well as a concealed carry license from Florida. Culp is also a Basic Pistol Instructor and an Illinois concealed carry licensing instructor. (App.34-35.)

Marlow Davis is a natural person and a resident of the City of Milwaukee, State of Wisconsin. He possesses a Wisconsin driver's license and a Wisconsin license to carry a concealed weapon. He is retired and spends approximately half of his time in Chicago. He is the husband of co-Plaintiff Freddie Reed-Davis. (App.36-37.)

Freddie Reed-Davis is a natural person and a resident of the City of Milwaukee, State of Wisconsin. She is the wife of co-Plaintiff Marlow Davis. She possesses a Wisconsin driver's license and a Wisconsin license to carry a concealed weapon. She is a nurse working in Chicago. (App.38-39.)

Douglas W. Zylstra is a natural person and a resident of the City of Munster, State of Indiana. He possesses an Indiana driver's license and an Indiana license to carry a concealed weapon, as well as a concealed carry license and instructor certification from Utah. Zylstra is an

Illinois State Police certified concealed carry instructor working for a firearm training company in Lansing, Illinois. (App.40-41.)

John S. Koller is a natural person and a resident of the City of Castle Rock, State of Colorado. He possesses a Colorado driver's license and a Colorado license to carry a concealed weapon, as well as concealed carry licenses from Utah, Nevada and Arizona. Koller was born & raised in Chicago, Illinois, and still has family in the Chicago area, who he visits. He also makes periodic business trips to Illinois. (App.42-43.)

Steve Stevenson is a natural person and a resident of the City of Aurora, State of Colorado. He possesses a Colorado driver's license. Stevenson has a Colorado resident concealed carry license, as well as a concealed carry license from Utah, and must occasionally traverse Illinois on I-80 or I-88 to visit relatives in both Illinois and Michigan. (App.24-25.)

Paul Heslin is a natural person and a resident of the City of Defiance, State of Missouri. He is originally from Lake County, Illinois. He possesses a Missouri driver's license and a Missouri license to carry a concealed weapon, as well as a concealed carry license from Florida,

and a Type 03 federal firearms license. He is also an Illinois certified concealed carry instructor. (App.28-29.)

Marlin Mangels is a natural person and a resident of the City of Keokuk, State of Iowa. He possesses an Iowa driver's license and an Iowa license to carry a concealed weapon, as well as concealed carry licenses from Utah and Arizona. Keokuk is just across the Mississippi River from Hamilton, Illinois. Mangels frequently rides his bicycle up the River Road in Illinois, eats in restaurants in Hamilton, Illinois, travels to see his wife's family in the Chicago area, and travels I-80 through Illinois to visit friends in Massachusetts. (App.30-31.)

Jeanelle Westrom is a natural person and a resident of the City of Davenport, Iowa. She possesses an Iowa driver's license and an Iowa license to carry a concealed weapon, as well as one in Georgia. She has a firearms business in Davenport, Iowa but also a separate firearms business in Geneseo, Illinois, where she spends a considerable amount of her time. Westrom also possesses three federal firearms licenses, which are required for her businesses. (App.6.)

The individual Plaintiffs are licensed to possess concealed

handguns in their states of residence, but are prohibited by 430 ILCS 66/40 from applying for an Illinois CCL. This is because their states of residence are not approved for applications for concealed carry licensing by the Defendants (App.6, 24-25, 28-31, 34-43.)

The individual Plaintiffs would apply for and obtain an Illinois concealed carry license, and would carry a loaded and functional concealed handgun in public in a concealed manner for self-defense, but refrain from doing so because they fear arrest, prosecution, fine, and imprisonment as it is unlawful for an unlicensed individual to carry a concealed handgun in Illinois. (App.6, 24-25, 28-31, 34-43.)

Organizational Plaintiffs

Second Amendment Foundation, Inc. is a non-profit membership organization incorporated under the laws of Washington with its principal place of business in Bellevue, Washington. SAF's membership includes non-residents of Illinois who wish to obtain an Illinois concealed carry license but do not have a concealed carry license from an "approved state" according to the Illinois State Police. SAF has over 650,000 members and supporters nationwide. The purposes of SAF

include education, research, publishing and legal action focusing on the Constitutional right privately to own and possess firearms. SAF brings this action on behalf of itself and its members. (App.26-27.)

Members of SAF who are not residents of Illinois and have concealed carry licenses from a non-approved state, would carry a loaded and functional concealed handgun in public in a concealed manner for self-defense, but refrain from doing so because they fear arrest, prosecution, fine, and imprisonment as they understand it is unlawful for an unlicensed individual to carry a concealed handgun in Illinois. (App.26-27.)

Illinois Carry is a non-profit membership organization incorporated under the laws of Illinois with its principal place of business in Shelbyville, Illinois. Illinois Carry has over 10,000 members and supporters in Illinois, and many members outside the State of Illinois. Illinois Carry is dedicated to the preservation of Second Amendment rights. Among Illinois Carry's purposes are educating the public about Illinois laws governing the purchase and transportation of firearms, aiding the public in every way in its power,

and supporting and defending the people's right to keep and bear arms, including the right of its members and the public to purchase, possess, and carry firearms. (App.32-33.)

Members of IC who are not residents of Illinois, and have concealed carry licenses from a non-approved state, would carry a loaded and functional concealed handgun in public in a concealed manner for self-defense, but refrain from doing so because they fear arrest, prosecution, fine, and imprisonment as they understand it is unlawful for an unlicensed individual to carry a concealed handgun in Illinois. (App.32-33.)

Illinois State Rifle Association is a non-profit membership organization incorporated under the laws of Illinois with its principal place of business in Chatsworth, Illinois. ISRA has over 17,000 members and supporters in Illinois, and many members outside the State of Illinois. The purposes of ISRA include securing the Constitutional right to privately own and possess firearms within Illinois, through education, outreach, and litigation. ISRA brings this action on behalf of itself and its members. (App.44-45.)

Members of ISRA who are not residents of Illinois, and have concealed carry licenses from a non-approved state, would carry a loaded and functional concealed handgun in public in a concealed manner for self-defense, but refrain from doing so because they fear arrest, prosecution, fine, and imprisonment as they understand it is unlawful for an unlicensed individual to carry a concealed handgun in Illinois. (App.44-45.)

The individual Plaintiffs are members of the above-named organizations (App.6, 24-25, 28-31, 34-43).

Without relief from Illinois's CCL non-resident application prohibition, all non-residents visiting, working in, or spending time in Illinois who are otherwise qualified to obtain a concealed carry license, including the individual Plaintiffs and the members and supporters of Plaintiffs SAF, IC, and ISRA, are frustrated in their ability to apply to carry handguns in a concealed manner for self-defense in Illinois, and to enjoy their constitutional rights.

But for the criminal enactments challenged herein, and Defendants' enforcement of same, the Plaintiffs and the qualified non-

resident organization members would apply to obtain non-resident concealed carry licenses under 430 ILCS 66/40 and carry concealable firearms for self-defense, but refrain from doing so for fear of arrest, prosecution, fine and incarceration. (App.6, 24-25, 28-31, 34-43.)

3. Procedural History

Plaintiffs filed their Complaint on October 22, 2014 (App.1). Plaintiffs moved for summary judgment (App.21) as did Defendants. After oral argument on August 22, 2017, the District Court denied summary judgment to Plaintiffs and granted summary judgment to the Defendants on September 18-19, 2017 (SA 1, 2).

4. The District Court's Decision

On September 18, 2017, the District Court issued an opinion granting summary judgment against the Plaintiffs and for the Defendants (SA 2). On September 19, 2017, the District Court entered judgment.

SUMMARY OF ARGUMENT

Illinois's prohibition on virtually all non-residents obtaining a concealed carry license for self-defense, regardless of said non-resident's

qualifications to do so, violates the Second and Fourteenth Amendments, as well as Article IV of the Constitution.

It was determined, for purposes of obtaining a preliminary injunction against the ban, that Plaintiffs showed a likelihood of success on the merits, irreparable harm, and no adequate remedy at law. The only factor in which the Courts have ruled against Plaintiffs was the balance of harm/public interest element. Nothing on Defendants' end has changed. They still have no evidence that allowing non-resident CCL holders to file CCL applications in Illinois would cause any harm, or that allowing non-resident CCL applications has caused harm anywhere else. Defendants cannot even argue that CCL *reciprocity* has caused a problem in any other state. The Defendants have nothing factual to support their discriminatory restriction.

In contrast, Plaintiffs show that CCL permit-holders are law-abiding and commit less crime than the general population, which explains why Defendants cannot show that any harm would result from enjoining the ban. Defendants likewise cannot show any resulting harm from allowing non-resident CCL-holders to possess firearms in

public while in their cars on Illinois roads, on hunting grounds, firing ranges and sport-shooting locations, and on Illinois residents' private property. The State allows all this yet denies the ability to apply for an actual CCL, which would ensure training, registration into Illinois's CCL system, and compliance with all of Illinois's CCL requirements.

It is the State's burden to justify their restriction on fundamental rights. All the Defendants have ever offered is they are worried something may happen. That is not good enough. While the State may regulate the CCL system in a constitutional manner, the current enforcement of Section 66/40 against the Plaintiffs and the law-abiding CCL holders of 45 states is not constitutional.

Also, the Defendants' concerns (as articulated in Trame's Affidavit) are outside the scope of the FCCA, which requires the ISP to search available databases in conducting their background checks, not to deny everyone the ability to apply just because the system is not perfect.

Summary judgment for Plaintiffs should have been granted.

ARGUMENT

I. THE COURT'S REVIEW IS *DE NOVO*.

“We review a district court’s decision to grant a motion for summary judgment *de novo*, construing all facts, and drawing all reasonable inferences from those facts, in favor of the nonmoving party.’ *Telemark Dev. Group, Inc. v. Mengelt*, 313 F.3d 972, 976 (7th Cir. 2002).

II. PLAINTIFFS SHOULD HAVE PREVAILED ON THE MERITS, AS ILLINOIS’S VIRTUAL BAN ON NON-RESIDENT CONCEALED CARRY LICENSE APPLICATIONS VIOLATES THEIR ARTICLE IV, AND THEIR SECOND AND FOURTEENTH AMENDMENT, RIGHTS.

1. *Summary Judgment Standard*

“Summary judgment is properly granted when ‘the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law.’” *Trustmark Ins. Co. v. General & Cologne Life Re of Am.*, 424 F.3d 542, 547 (7th Cir. 2005) (citing Fed. R. Civ. P. 56(c); quoting *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986)).

Summary judgment “is never warranted except on a clear showing that no genuine issue as to any material fact remains for trial.” *Mintz v. Mathers Fund, Inc.*, 463 F.2d 495, 498 (7th Cir. 1972). In evaluating a summary judgment motion, the court focuses on whether any material dispute of fact exists that would require a trial. *Winter v. Minn. Mut. Life Ins. Co.*, 199 F.3d 399, 408 (7th Cir. 1999). In making this determination, the court construes all facts and draws all reasonable inferences in favor of the nonmoving party. *King v. Preferred Technical Group*, 166 F.3d 887, 890 (7th Cir. 1999).

2. *Permanent Injunction Standard*

“[A] plaintiff seeking a permanent injunction must satisfy a four-factor test before a court may grant such relief. A plaintiff must demonstrate: (1) that it has suffered an irreparable injury; (2) that remedies available at law, such as monetary damages, are inadequate to compensate for that injury; (3) that, considering the balance of hardships between the plaintiff and defendant, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction.” *e360 Insight v. Spamhaus Project*, 500 F.3d

594, 604 (7th Cir. 2007); *See also eBay Inc. v. MercExchange, L.L.C.*, 547 U.S. 388, 391 (2006). *See also* Fed. R. Civ. P. 65(d).

These factors are applied to Plaintiffs' legal claims that the offending statute 430 ILCS 66/40 violates Plaintiffs' Second Amendment right to "keep and bear arms," their Fourteenth Amendment rights to due process and equal protection of the laws, and their Article IV rights to the same privileges and immunities as residents.

Under said analysis, Plaintiffs' constitutional rights are violated by 430 ILCS 66/40. Money damages are an inadequate remedy, the ongoing deprivation is irreparable, and interest balancing must cede to explicit constitutional protection.

3. The Prohibition Violates Plaintiffs' Second Amendment Rights.

As is well-known, the Supreme Court has held that the enumerated right to possess a firearm for lawful purposes, most notably for self-defense, is fundamentally core to the Second Amendment.

Heller, 128 S.Ct. at 2818. *See also McDonald*, 130 S.Ct. 3020, 3043 (2010). This Court made clear that right extends outside of the home.

Moore, 702 F.3d at 937.

In *Moore*, this Court held the ban of the public carrying of firearms violated the Second Amendment and was unconstitutional, and noted the importance of the right to self-defense:

Both *Heller* and *McDonald* do say that “the need for defense of self, family, and property is most acute” in the home, *id.* at 3036 (emphasis added); 554 U.S. at 628, but that doesn’t mean it is not acute outside the home. *Heller* repeatedly invokes a broader Second Amendment right than the right to have a gun in one’s home, as when it says that the amendment “guarantee[s] the individual right to possess and carry weapons in case of confrontation.” 554 U.S. at 592. Confrontations are not limited to the home.

Id. at 935-36.

This Court held that the State must make a “strong showing” where the challenged restriction curtails “the gun rights of the entire law-abiding adult population.” *Id.* at 940. The District Court noted that even the Defendants conceded that the restriction at bar is within the scope of the Second Amendment (App. 41), and with good reason: the prohibition in this case violates the rights of even more law-abiding people than in *Moore*.

As for the second step of the *Ezell* analysis, this Court has also compared the analysis of infringements of Second Amendment rights to those of infringements of First Amendment rights (*See Ezell v. City of Chicago*, 651 F.3d 684 (7th Cir. 2011) (ban on gun ranges within State limits ruled unconstitutional)). According to *Ezell*, infringements on the core Second Amendment right of possession for self-defense must satisfy a level of scrutiny approaching strict scrutiny. *Id.* at 708. This likewise means that Illinois’s prohibition, “. . . a severe burden on the core Second Amendment right of armed self-defense will require an extremely strong public-interest justification and a close fit between the government’s means and its end.” *Ezell*, 651 F.3d at 708; *See also Culp I*, 840 F.3d at 404 (Manion, J., dissenting).

From the various opinions that have been written in this case, the level of scrutiny applied to the analysis is critical. *See Culp I*, 840 F.3d at 404 (“Under the proper standard of review, the plaintiffs are certain to succeed on the merits of their Second Amendment claim”) (Manion, J., dissenting). Therefore, Plaintiffs strongly disagree with the District Court’s conclusion that the Second Amendment claims should be

analyzed using intermediate scrutiny.

It is unknown how many non-resident applicants there would be if the law changed. It is likewise unknown how many non-residents with CCLs in their home state are in Illinois at any one time. According to Mayor Rahm Emmanuel's Office, Chicago alone claimed to have 52 million tourists in 2015. A.J. LaTrace, *Chicago Breaks Tourism Record With 52M Visitors in 2015*, Chicago Curbed, April 26, 2016 (available at <http://chicago.curbed.com/2016/4/26/11510904/tourism-in-chicago-2015-record-breaking>) (last viewed November 6, 2017).

Further, even if it were not millions of people whose rights were at stake in this case, Plaintiffs assert that when it comes to fundamental rights, even if one person were aggrieved it is still deserving of strict scrutiny.

Plaintiffs are aware that the District Court applied intermediate scrutiny because of the majority opinion in *Culp I* (despite calling the dissent a "well-reasoned analysis" – SA 44), even though the majority in *Culp I* never specifically stated it was applying intermediate scrutiny, nor did it reference levels of scrutiny at all. The only clue was the

reference to the challenged statute not being “unreasonable,” *Culp I*, 840 F.3d at 403, which the dissent decried as an impermissible use of rational basis. *Id.* at 404 (Manion, J., dissenting).³ Plaintiffs urge this Court to clarify and apply the proper level of scrutiny.

When the standards required by *Moore* and *Ezell* are applied, including the proper level of scrutiny, Illinois cannot defend its arbitrary prohibition and 430 ILCS 66/40 fails.

Further, in *Heller*, neither the D.C. Circuit nor the Supreme Court bothered to engage in any balancing test or other extended analysis before striking down Washington, D.C.’s ban on the possession of functional firearms for self-defense, as that law literally contradicted a “core” aspect of Second Amendment rights. *Heller*, 128 S.Ct. at 2818.

It is not within the State’s constitutional power to ban otherwise qualified non-residents from possessing concealed firearms, including handguns which have been expressly deemed constitutionally protected

³ Plaintiffs presume, however, that if the majority had applied strict or near-strict scrutiny, that would have been noted in the majority opinion.

by the Supreme Court. *See Heller*, 128 S.Ct. at 2817-18. That Illinois has such a ban violates the Second and Fourteenth Amendments.

The State has no interest, let alone an extremely strong or compelling one, in denying virtually all non-residents the fundamental Second and Fourteenth Amendment rights of handgun possession in the same manner available to residents, based solely on than state of residence, especially when doing so by refusing them the ability to submit an application. This restriction is arbitrary in light of all the places in Illinois a non-resident can possess a firearm if she is licensed in her home state.

The Defendants claim they cannot properly vet or monitor a non-resident applicant or CCL holder, but even if true, there is no harm shown from that scenario, not logically nor from the information submitted by the Defendants. There is no evidence that any violence problems in the 45 states are due to those states' CCL application procedures. Non-residents from the 45 banned states can move to one of the four allowed states, or Illinois itself, and apply for a CCL. Illinois CCL holders who leave the State do not have their CCL's revoked or

suspended, even though the State cannot possibly know what those persons did while out of Illinois, unless they get convicted of an offense that lands them in a federal database. These people are all throughout Illinois, yet it is well-known these CCL holders are not the cause of any gun violence problem that may exist in Illinois.

The Issues Raised by Trame Are Outside the Scope of the Firearms Concealed Carry Act.

Trame's Affidavit raises many concerns, but the reasons she cites in support of the non-resident ban actually go far beyond the language of the FCCA. The statute provides the specific procedure for what non-resident applicants must submit, and provides the specific procedure that the Illinois State Police ("ISP") must follow in processing the out-of-state application. Trame is a civilian employee with an education in administration (App. 54) and no demonstrated knowledge or experience in the causes of crime, or crime statistics, or mental health. Trame's Affidavit outlines actions taken to obtain information about the applicants' backgrounds that go far beyond the legislative scheme the ISP is supposed to follow. It is imperative to examine the statutory

scheme and what the Illinois legislature determined that each applicant must provide the ISP, and what the FCCA requires the ISP to do.

Trame's Affidavit wrongly states that:

3. To qualify for a CCL, an Illinois resident must be eligible for and currently have a valid FOID Card. A non-resident does not need a valid FOID card to qualify for a CCL, but the Bureau is responsible for ensuring that a non-resident CCL applicant would meet the eligibility criteria to obtain a FOID card if he or she was an Illinois resident. (emphasis added) (App.308)

The ISP is not so responsible. The *Applicant* is responsible for ensuring eligibility. The actual wording of the statute in the Firearm Owners Identification Card Act puts the initial onus on the applicant to provide the proof in 17 areas of inquiry,

Sec. 4. (a) **"Each applicant** for a Firearm Owner's Identification Card must: ...

(2) **Submit evidence to the Department of State Police that:"** and thereafter listing those 17 areas.

(3) Upon request by the Department of State Police, sign a release on a form prescribed by the Department of State Police waiving any right to confidentiality and requesting the disclosure to the Department of State Police of limited **mental health institution admission information from another state**, the District of Columbia, any other territory of the United States, or a

foreign nation concerning the applicant for the sole purpose of determining whether the applicant is or was a patient in a mental health institution and disqualified because of that status from receiving a Firearm Owner's Identification Card. No mental health care or treatment records may be requested. The information received shall be destroyed within one year of receipt.” 430 ILCS 65/4(a)(2),(3). (Emphasis added)

The legislative scheme calls for the applicant to submit evidence first, then for the ISP to obtain a release to obtain records. There is no legislative authority to deny or revoke a FOID card simply because of the states’ collective failure to perfectly provide records. There is legislative authority that the ISP’s investigation cannot exceed 30 days:

Sec. 5. The Department of State Police shall either approve or deny all applications within 30 days from the date they are received, and every applicant found qualified under Section 8 of this Act by the Department shall be entitled to a Firearm Owner’s Identification Card upon the payment of a \$10 fee” (430 ILCS 65/5) (Emphasis added)

The legislature also provided an exclusive check list for denial of an application:

Sec. 8. Grounds for denial and revocation. The Department of State Police has authority to deny an application for or to revoke and seize a Firearm Owner's Identification Card previously issued under

this Act **only if the Department finds** that the applicant or the person to whom such card was issued is or was at the time of issuance:

...

(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. . . .” (430 ILCS 65/8) (Emphasis added)

Trame is wrong in claiming in her Affidavit that the Defendants and ISP are responsible for ensuring that the applicant has met this responsibility. Defendants have to receive the evidence submitted, and can investigate for up to 30 days. Defendants cannot deny an application if they either choose to use an imperfect database, or if they get a less than perfect response from their inquiries.

Further, the Statutes do allow for out-of-state law enforcement objections. Trame’s Affidavit incorrectly states:

7. ... the applicant’s information is made available to **Illinois** law enforcement agencies, which may submit an objection to a CCL applicant” (Emphasis supplied) (App. 309)

Any law enforcement agency can submit an objection under the

statute. The language from the FCCA, 430 ILCS 66/15(a), says that any law enforcement agency can object:

Any law enforcement agency may submit an objection to a license applicant based upon a reasonable suspicion that the applicant is a danger to himself or herself or others, or a threat to public safety.

Dovetailing with this list of potential law enforcement agencies that can object is the requirement under 430 ILCS 66/30(b) stating that:

. . . application shall contain the following: (1) the applicant's name, current address, date and year of birth, place of birth, height, weight, hair color, eye color, maiden name or any other name the applicant has used or identified with, and any address where the applicant resided for more than 30 days within the 10 years preceding the date of the license application;" (Emphasis added)

The statutory scheme that the ISP must follow gives wide latitude for the Department to use every address at which the applicant has lived, including the non-resident applicants, and to seek out objections by any in-state and any out-of-state law enforcement agencies. This mandated legislative scheme can fill in any imperfections with the databases which the ISP should query under the statute.

Additionally, difficulties with non-resident criminal histories are outside the scope of the FCCA. Trame's Affidavit wrongly states:

Difficulties Verifying Non-Resident Criminal History

11. The Bureau must verify that a CCL applicant's criminal history does not render the applicant ineligible for a CCL" (App. 309)

However, the language in Section 66/35 of the FCCA defines the scope of the "[i]nvestigation of the applicant" in Illinois in paragraphs 1 through 5. The wording also defines the scope of the investigation of out-of-state inquiries of "local agency or other public entity in any jurisdiction." 430 ILCS 66/35(6). Those background checks are listed. The first listed is the National Criminal Background Check system. The next three background checks only apply to "available" histories. The fifth background check is the Illinois Department of Human Services. The final listed category applies to "public entities in any jurisdictions" and likewise qualifies it to "available" records.

Sec. 35. Investigation of the applicant.

The Department shall conduct a background check of the applicant to ensure compliance with the requirements of this Act and all federal, State, and local laws. The background check shall include a

search of the following:

- (1) the **National Instant Criminal Background Check** system of the Federal Bureau of Investigation;
- (2) all available state and local criminal history record information files, including records of **juvenile adjudications**;
- (3) all available federal, state, and local records regarding **wanted persons**;
- (4) all available federal, state, and local records of **domestic violence restraining and protective orders**;
- (5) the files of the Department of Human Services relating to **mental health and developmental disabilities**; and
- (6) all other **available** records of a federal, state, or local agency or other public entity **in any jurisdiction** likely to contain information relevant to whether the applicant is prohibited from purchasing, possessing, or carrying a firearm under federal, state, or local law.

430 ILCS 66/35 (Emphasis added)

The actual statutory language does not require “verification” but instead requires the check be made of the six listed categories. The law does not list NLETS, the various states, counties or courthouses that Trame complains of in her Affidavit as being unavailable. The statute

only requires a “search” of “available” records. The actual statute does not require either full compliance with a search or perfection in the production in the responses.

Trame’s alleged difficulties verifying non-resident mental health information are also outside the scope of the statute. Trame’s Affidavit, under the title “Difficulties Verifying Non-Resident Mental Health Information” (paragraphs 16 through 20) lists individual issues that have cropped up where the ISP wanted to satisfy its curiosity about non-resident applicants. (App. 311) The FCCA shows that non-resident applicants are to be treated differently to Illinois applicants only in specifically defined sections:

“Sec. 40. Non-resident license applications.

...

c) A resident of a state or territory approved by the Department under subsection (b) of this Section may apply for a non-resident license. The applicant shall apply to the Department and must meet all of the qualifications established in Section 25 of this Act, except for the Illinois residency requirement in item (xiv) of paragraph (2) of subsection (a) of Section 4 of the Firearm Owners Identification Card Act. The applicant shall submit:

(1) the application and documentation required under

Section 30 of this Act and the applicable fee;

(2) a notarized document stating that the applicant:

(A) is eligible under federal law and the laws of his or her state or territory of residence to own or possess a firearm;

(B) if applicable, has a license or permit to carry a firearm or concealed firearm issued by his or her state or territory of residence and attach a copy of the license or permit to the application;

(C) understands Illinois laws pertaining to the possession and transport of firearms; and

(D) acknowledges that the applicant is subject to the jurisdiction of the Department and Illinois courts for any violation of this Act;

(3) a photocopy of any certificates or other evidence of compliance with the training requirements under Section 75 of this Act; and

(4) a head and shoulder color photograph in a size specified by the Department taken within the 30 days preceding the date of the application.

(d) In lieu of an Illinois driver's license or Illinois identification card, a non-resident applicant shall provide similar documentation from his or her state or territory of residence. In lieu of a valid Firearm Owner's Identification Card, the applicant shall submit documentation and information required by the Department to obtain a Firearm Owner's Identification Card, **including an affidavit that the non-resident meets the mental health standards to obtain a firearm under Illinois law, and the Department shall ensure that the applicant would meet the eligibility criteria to obtain a Firearm Owner's Identification card if he or she was a resident of this State.**" (430 ILCS 66/40 (c),(d)) (Emphasis added)

Therefore, the Illinois legislature has defined how to treat non-

resident applicants. They have the burden of providing additional notarized statements, affidavits and other listed documents, including that they are eligible and complying with the FCCA. The Illinois legislature does not allow an application to be denied if the Defendants have difficulties in obtaining a perfect investigation. Yet that is exactly what the Defendants are advocating and enforcing, in their scheme that by default distrusts the individual because of his or her state of residence (even though the applicant is required under oath to provide truthful information). The District Court found this acceptable, but that was in error, because the Defendants should be following the statute.

Trame's Affidavit at par.30 (App. 313) is objectionable because it displays that the fault is not with the applicant, but with the ISP's system. Any funding gap would arguably only exist in rare circumstances that additional arrest records must be retrieved from the local law enforcement offices in another state, but the State charges twice as much for non-resident applications, presumably (at least in part) for that purpose. The State claims many verification problems, yet

argued to the District Court that the NICS questions was the critical inquiry (SA 51).

The solution is to implement better measures, not ban the law-abiding people in 45 states from submitting an application. As the dissent in *Culp I* noted, non-resident applicants could provide verified records that it meets the State's requirements, including criminal records and mental health certifications. "Potential applicants should at least be given that chance." *Culp I*, 840 F.3d at 409 (Manion, J., dissenting). The State could treat the applicant, in appropriate circumstances, as those in-state applicants referred to the Concealed Carry Licensing Review Board, and ask for additional information, documentation, *etc...*

The District Court skirted this issue, and in doing so, proves Plaintiffs' point. The District Court wrote: "An applicant from a state with dissimilar laws is not denied because of a lack of information about the applicant but because the applicant is not from a qualifying state." SA 48. In other words, according to the District Court, a non-resident's qualifications and training are irrelevant if she lives in a

prohibited state. But that is not the answer, that is the *problem*.

The 2015 Survey Results Support Plaintiffs' Position

Plaintiff is unaware of any New Mexico resident committing a crime in Illinois as a result of being able to submit a CCL application in Illinois. Yet, on the latest survey in 2015 (no “substantially similar” surveys were sent in 2016 – *See* App. 134), New Mexico did not check “yes” to all the questions, checking “no” to the voluntary mental health admission question (App. 254). This is the same as Alaska (App. 137), Arizona (App. 139), Arkansas (App. 147), Delaware (App. 160-61), Idaho (App. 185), Indiana (App. 202), Kansas (App. 207), Kentucky (App. 211), Massachusetts (App. 217), Michigan (App. 219), Minnesota (App. 221); Nevada (App. 249), North Carolina (App. 261), North Dakota (App. 264), Oregon (App. 272) (virtually identical), Ohio (App.), Pennsylvania (App. 274), Tennessee (App. 278), West Virginia (App. 297), and Wisconsin (App. 299).

Hawaii, originally was on the approved “substantially similar” list, but in 2015 checked “no” to the NLETS question and the and the question about reporting mentally defective/committed persons to the

NICS index (App. 180). Despite this, Plaintiffs are unaware of any Hawaii residents committing crimes in Illinois as a result of applying for, or receiving, a CCL in Illinois.

South Carolina, also was on the approved “substantially similar” list, but in 2015 checked “no” to the NLETS question and the question about voluntary mental health admissions (App. 276). Despite this, Plaintiffs are unaware of any South Carolina residents committing crimes in Illinois as a result of applying for (or receiving) a CCL in Illinois. The same would almost certainly be said for states with the same survey results, such as Louisiana (App. 213), Maine (App. 215), Missouri (App. 242), Utah (App. 284), and Washington (App. 294).

Virginia, the fourth approved state, answered “no” to the NICS question (App. 292). Notwithstanding this fact, Plaintiffs are unaware of any Virginia residents committing a crime in Illinois as a result of applying for a CCL here.

New York answered “yes” to everything except the NLETS question (App. 258-60). which makes that state more similar than Hawaii, yet New York is rejected.

Further, in some states the checks are completed by the counties, not the state. But that is not the survey question. *See, e.g.*, New Jersey (App. 252).

Finally, Mississippi and Texas both answered “yes” to every question on the 2015 survey, but were still not on the approved “substantially similar” list until Plaintiffs raised the issue in their summary judgment pleadings (App. 240, 282). Coupled with the fact that no 2016 surveys were sent at all (App. 134), it is clear the Defendants just do not want to issue CCL permits, or are just picking states at random, rather than having any actual justification for the 45 state ban.

Research Supports Plaintiffs’ Position

Academic studies also support Plaintiffs’ position. First and foremost, peer reviewed academic studies show “most guns are in the hands of people who are unlikely to misuse them.” Philip J. Cook, Jens Ludwig, Adam M. Samaha, *Gun Control After Heller: Threats and Sideshows From a Social Welfare Perspective*, 56 UCLA LAW REVIEW 1041, 1046 (2009)

(available at www.uclalawreview.org/pdf/56-5-1.pdf, last viewed November 5, 2017).

“The available data about permit holders also imply that they are at fairly low risk of misusing guns, consistent with the relatively low arrest rates observed to date for permit holders.” *Id.* at 1082.

“During President Obama’s administration, the number of concealed handgun permits has soared to over 14.5 million – a 215% increase since 2007.” “In another 11 states, a permit is no longer required to carry in all or virtually all of the state. Thus the growth in permits does not provide a full picture of the overall increase in concealed carry.” “Each one percentage point increase in rates of permit-holding is associated with a roughly 2.5 percent drop in the murder rate.” “Concealed handgun permit holders are extremely law-abiding. In Florida and Texas, permit holders are convicted of misdemeanors and felonies at one-sixth of the rate at which police officers are convicted.” John R. Lott Jr., *Concealed Carry Permit Holders Across the United States: 2016, Report from the Crime Prevention Research Center*, at p.3 (2016) (found at

https://papers.ssrn.com/sol3/Delivery.cfm/SSRN_ID2814691_code16317.pdf?abstractid=2814691&mirid=1&type=2 (last viewed November 5, 2017)). From page 17 of this study, we can see Illinois had 180,583 concealed carry permits as of June 17, 2016 (*Id.* at p.17).

What Defendant Trame's Affidavit omits is that most Concealed Carry Applicants have no criminal history and hence have no gaps to research. Consider the "cohort study of handgun purchasers ages 21 to 49 in California in 1991, 2,761 with a non-prohibiting criminal history at the time of purchase and 4,495 with no prior criminal record, followed for up to 5 years." "A new conviction for a felony or violent misdemeanor leading to ineligibility to possess firearms under federal law was identified for 0.9% of subjects with no prior criminal history and 4.5% of those with 1 or more prior convictions..." Wright M.A., Wintemute G.J., *Felonious or violent criminal activity that prohibits gun ownership among prior purchasers of handguns: incidence and risk factors*, J. Trauma, Oct;69(4) at pp.948-55 (2010) (available at <https://www.ncbi.nlm.nih.gov/pubmed/20440225>, last viewed on November 5, 2017).

It is not in the public interest, and does not actually prevent any harm to Illinoisans to deprive the Second Amendment rights of the many with no arrests whatsoever because of the inherent problem in any data base that affects so few applicants.

Trame's Affidavit implies that isolated difficulties in verifying out of state applications will cause dire consequences in Illinois. That implication is refuted by comparing the states with the most people carrying concealed firearms because there is no permit system, to those states that have the fewest permits because of stringent concealed carry permit systems. "In 2014, the seven states that allowed concealed carry without a permit had much lower rates of murder and violent crime than did the seven jurisdictions with the lowest percentage of permit holders." Lott, *Concealed Carry Permit Holders Across the United States*: 2016 at p.10.

While the affidavit shows Illinois's current *ad hoc* procedure has database errors, the statutory scheme of a background Check system of the Federal Bureau of Investigation (430 ILCS 66/35(1)) is the gold standard. "No single source exists that provides complete and up-to-

date information about a person's criminal history. The FBI-maintained criminal history database, however, is certainly one of the better sources because it is based on positive identification and can provide, at a minimum, nationwide leads to more complete information." *THE*

ATTORNEY GENERAL'S REPORT ON CRIMINAL HISTORY

BACKGROUND CHECKS -June 2006 page 6 (located at

https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=7&ved=0ahUKEwiP16rIkrDRAhUZ0IMKHrUeCxxwQFghBMAY&url=https%3A%2F%2Fwww.bjs.gov%2Fcontent%2Fpub%2Fpdf%2Fag_bgchecks_report.pdf&usg=AFQjCNEZlC-op7B4tylG42ZrrdOyEzRucg&sig2=b8g6FxxPwTgmdEqmY8WkMQ&cad=rja, last viewed November 5, 2017).

Finally, it cannot be understated that someone who moves to Illinois, after living their whole lives in another state, regardless of what that state wrote on the "substantially similar" survey, is immediately eligible to obtain a FOID and apply for a CCL in Illinois. The same is true for one who moves to an approved state after a lifetime in a non-approved state. Further, someone who leaves the State for

mental health treatment but does not report it (perhaps leaving the State for that reason), or for example gets mental health treatment while attending an out-of-state school, will not have their CCL eligibility revoked. Someone who is not a danger to anyone but cannot handle their financial affairs, however, is deemed a mental defective and is ineligible.

Finally, of course, if someone wanted to bring a gun illegally into Illinois, he would just do so. It is ludicrous to suggest that being ineligible for a CCL would prohibit such an occurrence.

What this all means is that the non-resident CCL application virtual ban is both under-inclusive and over-inclusive, and is not sufficiently tailored to any public safety goal. *See Culp I*, 840 F.3d at 408-09 (Manion, J., dissenting). Under the strict or near-strict scrutiny required in this case, the ban does not pass muster. *See Arkansas Writers' Project, Inc.*, 481 U.S. at 232. The District Court found that the laws are “designed to ensure that felons and the mentally ill do not obtain concealed carry licenses.” SA 54. This is a laudable goal, but given that (1.) there is no proof the laws actually further this goal; (2.)

non-resident CCL-holders can legally bring guns in to the State in numerous circumstances; and (3.) criminals who wish to bring guns into the State do not apply for a license to do so, the challenged statute does not pass constitutional scrutiny.

This is not just academic. The State's virtual non-resident ban causes real harm. For example, on February 2, 2017, a 70 year-old veteran from St. Louis and another man were sitting in a vehicle in front of a residence in Venice, Illinois. Two other men approached them and attempted to rob them. The veteran, who was carrying a firearm in the vehicle pursuant to his Missouri concealed carry license, shot the two robbers. In discussing the incident, Thomas Gibbons, the Madison County State's Attorney, stated:

This is what this case is about. It is not about speculative harm from imaginary criminals who take the time to apply for a non-resident CCL before coming into Illinois to commit their dastardly deeds. It is about the law-abiding persons who wish to apply to obtain the same ability to defend themselves as Illinois residents. The St. Louis veteran was lucky to survive the incident, but even more nuanced than that he was lucky he was in his car, because that is about the only place in Illinois he could have been armed. The next person, who has the misfortune to be attacked by a

criminal on a city street, may not be so lucky.

See Vietnam Veteran Turns Table on Would-Be Robbers, Shooting Both, The Telegraph, February 3, 2017 (App. 304).

And, not three weeks ago a Missouri woman with a carry license was visiting Moline, Illinois, and was in a shopping mall parking lot. Because of Illinois's firearm laws, her pistol was stored in the center console of her truck. As she was exiting her vehicle, a man rushed her, stabbed her in the arm, forced her and himself into her vehicle, and forced her to drive into the country, throwing her cellphone out of the window along the way. When they arrived at a house, the attacker opened his door and dropped the knife, and at that time the woman grabbed her pistol from the center console and aimed it at the attacker. Presumably she was able to reach authorities, as the attacker is in jail on kidnapping charges, and the woman was not forced to shoot her attacker. As long as the State is persistent in speculating, it can speculate what would have happened to this woman at the destination house if she did not have a firearm, or if the attacker had decided to simply kill her in the parking lot and take her vehicle, ironically with

her firearm in the center console. *See Conway woman survives knife attack and kidnapping in Illinois*, (available at

<http://www.kspr.com/content/news/Conway-woman-survives-knife-attack-and-kidnapping-in-Illinois-451541183.html>, KSPRabc33,

October 19, 2017 (last checked November 4, 2017)). App. 306. These are real stories, not hypotheticals.

It is not seriously subject to dispute that a person intending to commit gun violence in Illinois is not going to undergo the training, fulfill the requirements, and pay the fees to first get an Illinois CCL. However, while everyone seems to acknowledge this, Plaintiffs request that the Court not ignore it, or just pay lip service to it. The Plaintiffs, as law-abiding persons, wish to participate in the system and are willing to fulfill all requirements in order to do so. In light of the above, the District Court should have granted Plaintiffs summary judgment and a permanent injunction against the enforcement of 430 ILCS 66/40.

4. *The Prohibition Violates Plaintiffs' Fourteenth Amendment Equal Protection Rights.*

The District Court erred in ruling against Plaintiffs' Fourteenth

Amendment claim, and also erred by not analyzing it using strict scrutiny. Had it done so, Plaintiffs should have prevailed on the claim.

“The Fourteenth Amendment provides that ‘[no] State shall . . . deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.’” *Plyler v. Doe*, 457 U.S. 202, 210 (1982) (undocumented alien children being denied public school education violation of Equal Protection Clause). “The Equal Protection Clause was intended as a restriction on state legislative action inconsistent with elemental constitutional premises.” *Id.* at 217. “[T]his [Supreme] Court always has held that the Equal Protection Clause forbids a State to discriminate in favor of its own residents solely by burdening ‘the residents of other state members of our federation.’” *Metropolitan Life Insurance Company v. Ward*, 470 U.S. 869, 878 (U.S. 1985) (quoting *Allied Stores of Ohio, Inc. v. Bowers*, 358 U.S. 522, 533 (1959) (Brennan, J., concurring)).

“Under the Equal Protection Clause of the Fourteenth Amendment, courts apply strict scrutiny to statutes that involve

suspect classifications or infringe upon fundamental rights.” *Moore v. Detroit School Reform Board*, 293 F.3d 352, 368 (6th Cir. 2002) (citing *Clark v. Jeter*, 486 U.S. 456, 461 (1988) (explaining that under the Equal Protection Clause of the Fourteenth Amendment, ‘classifications based on race or national origin, and classifications affecting fundamental rights are given the most exacting scrutiny’) (internal citations omitted). “This level of review demands that the statute be ‘narrowly tailored to serve a compelling state interest.” *Reform Board*, 293 F.3d at 368 (quoting *Washington v. Glucksberg*, 521 U.S. 702, 721 (1997)).

The quintessential example of how the legal landscape has changed, and why Plaintiffs should prevail in this matter is *Sklar v. Byrne*, 727 F.2d 633 (7th Cir. 1984). In *Sklar*, the plaintiff moved to Chicago five days after it passed its now-defunct handgun ban in 1982. He challenged the ban on equal protection grounds, claiming residents were grandfathered and were allowed to possess their previously purchased handguns, while new residents suffered discrimination in not having the same opportunity. *Id.* at 636. The District Court

dismissed for failure to state a claim, and this Court affirmed.

First, the *Sklar* Court determined the standard of review, noting that:

Where the legislative classification works to the disadvantage of a constitutionally suspect class -- based, for example, on race, nationality, alienage or religious affiliation -- then courts may uphold the classification only if it is ‘precisely tailored to serve a compelling governmental interest.’ *Plyler v. Doe*, 457 U.S. 202, 216-17 & n.14, 72 L. Ed. 2d 786, 102 S. Ct. 2382 (1982). Similarly, if the legislative classification impinges upon the exercise of a fundamental personal right, the classification must meet the same exacting ‘compelling interest’ standard. 457 U.S. at 216-17.

Sklar, 727 F.2d at 636 (boldface added).

Because *Sklar* predated *Heller* and *McDonald* and *Moore*, the *Sklar* Court held that the grandfather clause and simultaneous handgun ban for all those who did not comply did “not impinge upon any federal constitutional right to bear arms” and said “[n]or is the asserted right to bear arms pivotal in the effective exercise of constitutionally guaranteed rights” and therefore applied rational basis scrutiny. *Id.* at 637. The *Sklar* Court then upheld the ordinance. *Id.* at 642-643.

The analysis of Second Amendment rights has changed since *Sklar* in 1984, and if the ban in *Sklar* was attempted today, it would quickly be struck down as a violation of Second and Fourteenth Amendment rights.

The arbitrary and discriminatory law at issue must be analyzed using strict scrutiny since it has already been established this matter involves the State deprivation of a fundamental right. There is no reason, compelling or otherwise, to ban virtually all Americans from even applying for a CCL. Further, the law is not narrowly tailored, since there are ways short of a ban to ensure that only qualified non-residents obtain an Illinois CCL. “Strict scrutiny is a demanding standard that requires Defendants to show the governmental interest to be compelling and the associated regulation narrowly tailored to serve that interest. To be narrowly tailored, the curtailment of constitutional rights must be actually necessary to the solution.” *Mance v. Holder*, 74 F.Supp.3d 795, 809 (N.D.TX 2015) (citing *Brown v. Entm’t Merchs. Ass’n.*, 131 S. Ct. 2729, 2738 (2011)). In *Mance*, for instance, the Court noted that just because Congress believed an activity had an effect on

interstate commerce did not necessarily make it so. *Mance*, 74 F.Supp.3d at 811 (citing *United States v. Morrison*, 529 U.S. 598, 614 (2000)). Likewise, the Defendants should not be taken at their word absent evidence, as in *Ezell* and *Moore*.

In *Mance*, the Court struck down the laws that collectively made up a federal interstate handgun transfer ban, which among other things prohibited people from purchasing firearms outside of their state of residence. In so doing, the Court held:

The Supreme Court has also held that strict scrutiny is required where the challenged classification impinges on residency. *See Mem'l Hosp. v. Maricopa Cnty.*, 415 U.S. 250, 254-64 (1974) (holding that a challenge to a state durational-residency requirement to receive free, nonemergency medical care merited strict scrutiny, and the requirement was unconstitutional); *see also Att'y Gen. of N.Y. v. Soto-Lopez*, 476 U.S. 898 (1986). The Supreme Court applied strict scrutiny in situations where state laws discriminated against non-residents, and those cases involved benefits offered by the state, not constitutional rights. *See id.*; *Mem'l Hosp.*, 415 U.S. at 254.

Mance, 74 F.Supp.3d at 814.

State laws have been successfully challenged under the Equal Protection Clause in other contexts as well. *See Williams v. Vermont*,

472 U.S. 14 (1985) (non-resident “use tax” for bringing a car into the State struck down under rational basis review); *See also Metropolitan Life Insurance Company v. Ward*, 470 U.S. 869 (1985) (discriminatory taxing of out-of-state corporations struck down).

Here, a fundamental right is being denied to most out-of-state residents. While the tax in *Williams* could not pass rational basis review, here there is no way the CCL application ban passes strict scrutiny. *See Obergefell v. Hodges*, 135 S. Ct. 2584; 192 L. Ed. 2d 609, 634 (2015) (“Being married in one State but having that valid marriage denied in another is one of “the most perplexing and distressing complication[s]” in the law of domestic relations.”) The enumerated Second Amendment right cannot be treated inferior to the right to marry found by the Supreme Court in the Fourteenth Amendment.

In this case, life and liberty are clearly at stake, as is the ability to exercise fundamental constitutional rights. The Plaintiffs are being discriminated against in an arbitrary manner for no reason other than their states of residence. On this basis as well, this Court must enjoin the enforcement of 430 ILCS 66/40 as unconstitutional.

5. *The Prohibition Infringes on Plaintiffs' Enjoyment of a Fundamental Privilege Under Article IV.*

U.S. Const. Art. IV, § 2, Clause 1 states: “The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.” This provides an additional basis for the relief Plaintiffs seek, which the District Court erred in denying.

Article IV “prohibits state legislation discriminating against citizens of other States.” *Hess v. Pawloski*, 274 U.S. 352, 356 (1927).

“While the Privileges and Immunities Clause cites the term ‘Citizens,’ for analytic purposes citizenship and residency are essentially interchangeable.” *Supreme Court of Virginia v. Friedman*, 487 U.S. 59, 64 (1988).

In *Corfield v. Coryell*, 6 F. Cas. 546 (C.C.E.D. Pa. 1823), the federal circuit court held that privileges and immunities in respect of which discrimination is barred include

protection by the Government; the enjoyment of life and liberty ... the right of a citizen of one State to pass through, or to reside in any other State, for purposes of trade, agriculture, professional pursuits, or otherwise; to claim the benefits of the writ of habeas corpus; to institute and maintain actions of any kind in the courts

of the State; to take, hold and dispose of property, either real or personal; and an exemption from higher taxes or impositions than are paid by the other citizens of the State. (Emphasis added.)

Laws were unconstitutional that disadvantaged persons who made their homes in other states from exercising “fundamental rights.” See Howell, Tim, *Privilege and Immunities of State Citizenship*, 33-61 (1918); Meyers, *The Privileges and Immunities of Citizens in the Several States* (pt. 2), 1 Mich. L. Rev. 364 (1903).

The primary purpose of the Privileges and Immunities Clause ‘was to help fuse into one Nation a collection of independent, sovereign States.’ *Toomer [v. Witsell]*, 334 U.S. [385] at 395 [(1948)]. The clause ‘was intended to create a national economic union,’ *Supreme Court of New Hampshire v. Piper*, 470 U.S. 274, 280, 105 S. Ct. 1272, 84 L. Ed. 2d 205 (1985), and ‘was designed to place the citizens of each State upon the same footing with citizens of other States, so far as the advantages resulting from citizenship in those States are concerned.’ *Friedman*, 487 U.S. at 64 (internal quotations omitted); *Toomer*, 334 U.S. at 395.

Council of Insurance Agents & Brokers v. Molasky-Arman, 522 F.3d 925, 933-934 (9th Cir. 2008).

“Our opinions teach that Art. IV’s Privileges and Immunities Clause “was designed to insure to a citizen of State A who ventures into

State B the same privileges which the citizens of State B enjoy.” *Zobel v. Williams*, 457 U.S. 55, 74 (1982) (O’Connor, J., concurring) (quoting *Toomer*, 334 U.S. at 395). The Clause protects a nonresident who enters a State to work.” *Zobel*, 457 U.S. at 74 (O’Connor, J., concurring) (citing *Hicklin v. Orbeck*, 437 U.S. 518 (1978)).

First, the Court determines “whether the activity in question is ‘sufficiently basic to the livelihood of the nation . . . as to fall within the purview of the Privileges and Immunities Clause.’ *Friedman*, 487 U.S. at 64 (citations and internal quotation marks omitted). ‘Second, if the challenged restriction deprives nonresidents of a protected privilege, we will invalidate it only if we conclude that the restriction is not closely related to the advancement of a substantial state interest.’ *Id.* at 65 (citation omitted).” *Insurance Agents*, 522 F.3d at 934.

“In the first step of [the Court’s] inquiry, it is ‘[o]nly with respect to those ‘privileges’ and ‘immunities’ bearing upon the vitality of the Nation as a single entity must the State treat all citizens, resident and nonresident, equally.’ *Baldwin v. Fish and Game Comm’n of Montana*, 436 U.S. 371, 383, 98 S. Ct. 1852, 56 L. Ed. 2d 354 (1978).” *Insurance*

Agents, 522 F.3d at 934. Certainly the fundamental right to protect one's self and family, wherever one goes, bears upon the vitality of the Nation.

In *Insurance Agents*, the Court found the right to sell insurance in another state to be a fundamental right or privilege covered by Article IV's Privilege and Immunities Clause. *Insurance Agents*, 522 F.3d at 934. The Second Amendment's right to defend one's life and those of one's family has been declared fundamental in *McDonald* (which largely cited to *Heller*) and *Moore*. The right to armed self-defense cannot be considered less fundamental than the right to sell insurance.

The Privileges and Immunities Clause applies here. *See also Powell v. Daily*, 712 P.2d 356 (Wyo. 1986) (statute requiring Wyoming residency to get professional hunting and fishing guide's license violated Privileges and Immunities Clause).

As for the second prong of the Privileges and Immunities analysis, “[a] ‘substantial reason’ for discrimination does not exist ‘unless there is something to indicate that non-citizens constitute a peculiar source of the evil at which the statute is aimed.’” *Insurance Agents*, 522 F.3d at

934 (quoting *Toomer*, 334 U.S. at 398).

There is no “substantial state interest” in refusing to allow people to apply for a CCL, and whatever “evil” the Defendants are attempting to prevent, the Plaintiffs (and other qualified non-residents) are not the problem. If the non-resident applicant does not qualify as every Illinois CCL-holder must, then that person will be denied. It is absurd that non-residents, including some Plaintiffs, can be Illinois CCL instructors and cannot even apply to obtain a CCL themselves.

Just as the *Insurance Agents* Court noted that “[t]here is no evidence in the record that licensed non-resident agents and brokers are inherently less trustworthy or less competent insurance professionals than Nevada’s resident agents,” 522 F.3d at 936, qualified CCL applicants from out-of-state are no less competent or untrustworthy than similarly-situated Illinois residents. Discriminating against 45 of the 49 non-residents states in America is exactly what the Privileges and Immunities Clause was designed to prevent. The restriction must be enjoined.

6. *The Prohibition Violates Plaintiffs' Fourteenth Amendment Due Process Rights.*

Additionally, the virtual ban violates the Plaintiffs' Fourteenth Amendment procedural due process rights. The District Court ruled that since, in its opinion, there was no Second Amendment violation, then Plaintiffs were not deprived of a liberty or property interest. SA 60. However, this was error, compounding on the District Court's previous error in its Second Amendment analysis.

“Under the Due Process Clause of the Fourteenth Amendment, no State shall ‘deprive any person of life, liberty, or property, without due process of law.’ The fundamental liberties protected by this Clause include most of the rights enumerated in the Bill of Rights.” *Obergefell v. Hodges*, 135 S.Ct. 2584, 2697 (2015) (citing *Duncan v. Louisiana*, 391 U.S. 145, 147-149 (1968)).

“To demonstrate a procedural due process violation, the plaintiffs must establish that there is ‘(1) a cognizable property interest; (2) a deprivation of that property interest; and (3) a denial of due process.’” *Hudson v. City of Chicago*, 374 F.3d 554, 559 (7th Cir. 2004) (quoting

Buttitta v. City of Chicago, 9 F.3d 1198, 1201 (7th Cir. 1993)).

“Due process ‘is not a technical conception with a fixed content unrelated to time, place[,] and circumstances[;]’ instead, it ‘is flexible and calls for such procedural protections as the particular situation demands.’ *Mathews v. Eldridge*, 424 U.S. 319, 334 (1976) (citations omitted). The process constitutionally required is determined by balancing three distinct factors:

First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safe-guards; and finally, the Government’s interest.

Gilbert v. Homar, 520 U.S. 924, 931-32 (1997) (quoting *Mathews*, 424 U.S. at 335).

The private interest affected by the virtual ban is great – Plaintiffs are deprived of Second Amendment rights and the ability to defend their lives as can Illinois residents. Further, there is no process or procedure to rectify the situation except for Court intervention. This is another reason why Plaintiffs are entitled to immediate injunctive

relief against 430 ILCS 66/40 and its virtual non-resident ban.

IV. PLAINTIFFS WILL SUFFER IRREPARABLE HARM IN THE ABSENCE OF PERMANENT INJUNCTIVE RELIEF.

This element does not seem in dispute. However, Plaintiffs discuss it here due to the Court's *de novo* review. Plaintiffs, and the non-resident members of the organizational Plaintiffs, enjoy a fundamental right to keep and bear arms. *McDonald*, 130 S. Ct. at 3042. "[T]he inherent right of self-defense has been central to the Second Amendment right." *Heller*, 128 S. Ct. at 2817. The denial of constitutional rights, even if such deprivation were temporary, constitutes irreparable harm for purposes of granting injunctive relief (*See, e.g., Elrod v. Burns*, 427 U.S. 347, 373 (1976)).

The District Court previously agreed, citing to *Ezell*, that irreparable injury will continue to exist in the absence of an injunction because Plaintiffs "will suffer irreparable harm in the interim – that is, harm that cannot be prevented or fully rectified by the final judgment after trial." *Culp v. Madigan*, 2015 U.S. Dist. LEXIS 163423 at **53-54 (C.D.Ill. 2015) (citing *Roland Mach. Co. v. Dresser Indus., Inc.*, 749 F.2d

380, 386 (7th Cir. 1984) (emphasis added)).

The *Ezell* Court held that “[t]he loss of a First Amendment right is frequently presumed to cause irreparable harm based on ‘the intangible nature of the benefits flowing from the exercise of those rights; and the fear that, if those rights are not jealously safeguarded, persons will be deterred, even if imperceptibly, from exercising those rights in the future.’ . . . The Second Amendment protects similarly intangible and unquantifiable interests. *Heller* held that the Amendment’s central component is the right to possess firearms for protection. (cite omitted). Infringements of this right cannot be compensated by damages.” *See Ezell*, 651 F.3d at 699.

Additionally, the violation of Plaintiffs’ right to Equal Protection Clause of the Fourteenth Amendment, as discussed above, is an irreparable harm continuing so long as the offending statute is in place. Equal protection “is essentially a direction that all persons similarly situated shall be treated alike.” *City of Cleburne v. Cleburne Living Center*, 473 U.S. 432, 439 (1985). “When an alleged constitutional right is involved, most courts hold that no further showing of irreparable

injury is necessary.” *Kikumura v. Hurley*, 242 F.3d 950, 963 (10th Cir. 2001) (citing 11A Charles Alan Wright *et al.*, *Federal Practice and Procedure* § 2948.1 (2d ed. 1995)); *See also Rum Creek Coal Sales, Inc. v. Caperton*, 926 F.2d 353, 362 (4th Cir. 1991); *Ezell*, 651 F.3d at 699.

Plaintiffs suffer the irreparable harm of the deprivation of their Second and Fourteenth Amendment rights, and suffer said irreparable harm every day 430 ILCS 66/40 is not enjoined.

IV. TRADITIONAL LEGAL REMEDIES ARE INADEQUATE TO RELIEVE THE HARM OF THE BAN ON CONCEALABLE FIREARM REGISTRATION BY QUALIFIED NON-RESIDENTS.

The District Court also previously agreed that Plaintiffs’ harm cannot be redressed by money damages. *Culp v. Madigan*, 2015 U.S. Dist. LEXIS 163423 at **52-53. Again, Plaintiffs reiterate their arguments due to the Court’s *de novo* review.

This Court has quoted Justice Brennan’s statement in *Elrod* that “the loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.” *See, e.g., Nuxoll v.*

Indian Prairie School District No. 204, 523 F.3d 668, 669-70 (7th Cir. 2008) (quoting *Elrod*, 427 U.S. at 373 (plurality op.)); accord *Christian Legal Soc’y v. Walker*, 453 F.3d 853, 859 (7th Cir. 2006); *Joelner*, 378 F.3d at 620. The *Ezell* Court recognized that “[t]he Second Amendment protects similarly intangible and unquantifiable interests” as those secured by the First Amendment. *Ezell*, 651 F.3d at 699. As such, the Seventh Circuit found that “[i]nfringements of this right cannot be compensated by money damages.” *Id.* (emphasis added).

No legal remedies will aid qualified non-residents who are deprived of their Second or Fourteenth Amendment rights. And quite obviously, no legal remedies will suffice to compensate those killed or injured owing to Illinois’s virtual ban.

V. THE BALANCE OF INTERESTS FAVORS PERMANENT INJUNCTIVE RELIEF.

This element is intrinsically tied to the merits argument, though Plaintiffs add the following discussion. By incorrectly analyzing Plaintiffs’ Second Amendment claims using intermediate scrutiny, when strict or near-strict scrutiny was appropriate, the District Court

erred in its overall analysis of this element, such that this Court must reverse that finding and grant injunctive relief.

Once the “threshold” factors have been met, the decision to grant or deny an injunction turns on the balance of equities. *See Ty, Inc. v. Jones Group Inc.*, 237 F.3d at 895. The court “weighs the irreparable harm that the moving party would endure without the protection of the preliminary injunction against any irreparable harm the nonmoving party would suffer if the court were to grant the requested relief” in light of the probable merit of the claim, and also considers the injunction’s impact on non-parties (the “public interest”). *See Girl Scouts*, 549 F.3d at 1086.

Despite Defendants’ concerns, Plaintiffs reiterate what this Court held in *Moore*:

[T]he Supreme Court made clear in *Heller* that it wasn't going to make the right to bear arms depend on casualty counts. 554 U.S. at 636. If the mere possibility that allowing guns to be carried in public would increase the crime or death rates sufficed to justify a ban, *Heller* would have been decided the other way, for that possibility was as great in the District of Columbia as it is in Illinois.

Moore, 702 F.3d at 939. As this case is essentially a progeny of *Moore*, the above conclusion is just as applicable here as in that case.

Absent relief, Plaintiffs will continue to suffer irreparable injury in the loss of constitutional rights, if not actual physical harm. The State has no legitimate interest in the prohibition; and the public interest strongly favors equal protection of the law, and the respecting of fundamental rights, to say nothing of the ability of all qualified law-abiding persons in Illinois to defend themselves equally.

Further, the notion that a non-resident criminal or mentally ill person, who wishes to commit gun violence in Illinois, is going to first apply for a concealed carry license is ludicrous. Likewise, the idea that refusing a CCL to someone intent on committing a criminal act with a firearm would stop that wrongful act is just as ludicrous.

The Plaintiffs are real, law-abiding, and qualified, and wish to apply for an Illinois CCL, and meet all requirements to do so. While gun violence is a compelling issue, the granting of a non-resident CCL is not going to affect it in the least. Denying a non-resident CCL to a qualified individual, however, could have catastrophic consequences.

Refusing to allow the qualified individuals from 45 states to *apply* for a non-resident CCL will not improve public safety. Defendants have not pointed to a single violent incident in the affected 45 states regarding someone who was able to commit said violent act because he applied for, or received, a CCL.⁴ The Court cited to the Defendants' concerns about cost, even though a non-resident CCL application costs twice as much as a resident's application. Even if cost is a concern, it cannot be a justification to deny constitutional rights. If this were true, then any right would be in jeopardy at the hands of a governmental body that could not, or did not want to, allocate the alleged necessary funds.

When the District Court weighed a hypothetical calamity more heavily than the real people being affected by this restriction of fundamental rights, the District Court committed reversible error.

Because the balance of interests tilts in favor of injunctive relief, the District Court's granting summary judgment to the Defendants, and

⁴ Plaintiffs of course cannot say a CCL-holder in America has never committed an act of violence, though such unknown incidents, even if they exist, are undeniably far less frequent than acts of gun violence committed by those without licenses, such as gang members and other criminals. Further, none of this outweighs the fundamental right of self-defense enjoyed by law-abiding persons in 45 States.

denying summary judgment to the Plaintiffs, should be reversed.

CONCLUSION

The judgment below should be reversed and remanded with instructions to enter summary judgment and a permanent injunction in Plaintiffs' favor, as well as any and all relief consistent with such ruling.

Dated: November 7, 2017

Respectfully submitted,

By: /s/ David G. Sigale
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**CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME
LIMITATIONS, TYPEFACE REQUIREMENTS, AND
TYPE STYLE REQUIREMENTS**

1. This brief complies with the type-volume limitation of Fed. R. App. P. 32(a)(7)(B) because this brief contains 12,962 words, excluding the parts of the brief excluded by Fed. R. App. P. 32(a)(7)(B)(iii).

2. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and Circuit Rule 32(b), and the type style requirements of Fed. R. App. P. 32(a)(6) because this brief has been prepared in proportionately spaced typeface using Microsoft Word 2016 in 14 point Century font.

/s/ David G. Sigale

David G. Sigale

Attorney for Plaintiffs-Appellants

Dated: November 7, 2017

**CERTIFICATE OF SERVICE****Certificate of Service When All Case Participants Are CM/ECF Participants**

I hereby certify that on November 7, 2017, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Seventh Circuit by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

s/ David G. Sigale

**CERTIFICATE OF SERVICE****Certificate of Service When Not All Case Participants Are CM/ECF Participants**

I hereby certify that on _____, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Seventh Circuit by using the CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

I further certify that some of the participants in the case are not CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third-party commercial carrier for delivery within 3 calendar days, to the following non-CM/ECF participants:

counsel / party:

address:

s/ _____

REQUIRED SHORT APPENDIX

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CIRCUIT RULE 30(d) STATEMENT

Pursuant to Circuit Rule 30(d), counsel certifies that all material required by Circuit Rule 30(a) are included in the required short appendix. All materials required by Circuit Rule 30(b) are included in the separate appendix pursuant to Circuit Rule 30(b)(7),

/s/ David G. Sigale

David G. Sigale

UNITED STATES DISTRICT COURT

for the

Central District of Illinois

Kevin W. Culp, Marlow Davis,)

Freddie Reed-Davis, Douglas)

W. Zylstra, John S. Koller,)

Steve Stevenson, Paul Heslin,)

Marlin Mangels, Gus C. Brown II,)

Jeanelle Westrom, Second)

Amendment Foundation, Inc.,)

Illinois Carry, and Illinois State)

Rifle Association,)

Plaintiffs,)

vs.)

Case Number: 14-3320

Lisa Madigan, in her official capacity as)

Attorney General of the State of Illinois;)

Leo P. Schmitz, in his Official Capacity as)

Director of the Illinois State Police;)

Hiram Grau; and Jessica Trame,)

as Bureau Chief of the Illinois State)

Police Firearms Services Bureau,)

Defendants.)

JUDGMENT IN A CIVIL CASE

☐ **JURY VERDICT.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

☒ **DECISION BY THE COURT.** This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED, pursuant to the Opinion entered by United States District Court Judge Sue E. Myerscough on September 15, 2017, judgment is entered in favor of the Defendants and against the Plaintiffs.

Pursuant to Text Order of 9/14/2015, Gus C. Brown II was dismissed as a Plaintiff. Pursuant to Opinion of 12/4/2015, Leo P. Schmitz was substituted for Hiram Grau as a Defendant.

Dated: September 19, 2017

s/ Kenneth A. Wells
Kenneth A. Wells
Clerk, U.S. District Court

Sim
9/19/17
SA 1

**IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
SPRINGFIELD DIVISION**

**KEVIN W. CULP, MARLOW DAVIS,)
FREDDIE REED-DAVIS, DOUGLAS)
W. ZYLSTRA, JOHN S. KOLLER,)
STEVE STEVENSON, PAUL)
HESLIN, MARLIN MANGELS,)
JEANELLE WESTROM, SECOND)
AMENDMENT FOUNDATION, INC.,)
ILLINOIS CARRY, and ILLINOIS)
STATE RIFLE ASSOCIATION,)**

Plaintiffs

v.

No. 14-CV-3320

**LISA MADIGAN, in her Official)
Capacity as Attorney General of)
the State of Illinois;)
LEO P. SCHMITZ, in his Official)
Capacity as Director of the)
Illinois State Police, and)
JESSICA TRAME, as Bureau Chief)
of the Illinois State Police)
Firearms Services Bureau,)**

Defendants.

OPINION

SUE E. MYERSCOUGH, U.S. District Judge.

This cause is before the Court on the Motion for Summary Judgment (d/e 45) filed by Plaintiffs Kevin W. Culp, Marlow Davis,

Freddie Reed-Davis, Douglas W. Zylstra, John S. Koller, Steve Stevenson, Paul Heslin, Marlin Mangels, Jeanelle Westrom, Second Amendment Foundation, Inc., Illinois Carry, and Illinois State Rifle Association and the Motion for Summary Judgment (d/e 43) filed by Defendants Lisa Madigan, in her official capacity as Attorney General of the State of Illinois; Leo P. Schmitz, in his official capacity as Director of the Illinois State Police; and Jessica Trame, as Bureau Chief of the Illinois State Police, Firearms Services Bureau. On August 22, 2017, the Court held a hearing on the motions.

The Court finds that the result in this case is largely dictated by the Seventh Circuit's decision on appeal of this Court's denial of a preliminary injunction. Applying the level of scrutiny applied by the Seventh Circuit on appeal, the Court finds that the challenged law is substantially related to Illinois' important public-safety interest. Therefore, Defendants' Motion for Summary Judgment (d/e 43) is GRANTED, and Plaintiffs' Motion for Summary Judgment (d/e 45) is DENIED.

I. BACKGROUND

Plaintiffs include individuals who are residents of Wisconsin, Colorado, Missouri, Iowa, Pennsylvania, and Indiana¹ who would apply for a concealed carry permit if able and who would carry firearms in Illinois but fear prosecution. The individual Plaintiffs, all of whom hold concealed carry licenses in their home states, work in or visit Illinois. Plaintiffs also include three organizations, Second Amended Foundation, Inc., Illinois Carry, and Illinois State Rifle Association, who assert that they have many non-Illinois resident members who work in, travel to, and spend significant amounts of time in Illinois and would apply for concealed carry permits if able. This Court previously found that Plaintiffs had standing to bring this lawsuit. Culp v. Madigan, No. 14-CV-3320, 2015 WL 13037427, at *11 (C.D. Ill. Dec. 7, 2015) (Culp I).

Plaintiffs allege that Section 40 of the Illinois Firearm Concealed Carry Act (Concealed Carry Act) (430 ILCS 66/40) and all

¹ At oral argument, the parties advised the Court that Plaintiff Culp, who is a legal resident of Pennsylvania and who was stationed in Illinois when the case was filed, is now stationed in Ohio.

other statutory language that restricts otherwise-qualified nonresidents of Illinois of the rights and privileges of carrying concealed firearms based solely on their state of residence violates their Second Amendment rights, the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, the Privileges and Immunities Clause of Article IV, § 2, and the Due Process Clause of the Fourteenth Amendment. Plaintiffs seek a declaratory judgment that Section 40 of the Concealed Carry Act and all other Illinois statutory language that restricts otherwise qualified nonresidents of Illinois of the rights and privileges of carrying concealed firearms based solely on their states of resident is unconstitutional. Plaintiffs also seek a permanent injunction barring enforcement of the challenged laws.

A. Relevant Law Governing the Possession or Carrying of Firearms in Illinois

Two Illinois statutes govern the possession and carrying of firearms in Illinois: the Firearm Owners Identification Card Act (430 ILCS 65/0.01 et seq.) (FOID Act) which permits qualified individuals to possess firearms, and the Concealed Carry Act (430

ILCS 66/1 et seq.), which permits qualified individuals to carry concealed handguns in public. Nonresident applicants for a concealed carry license must meet all of the requirements for a FOID card except residency.

1. The FOID Act

The FOID Act generally prohibits a person from possessing a firearm in Illinois unless the person has a FOID card. 430 ILCS 65/2(a). Among its many requirements, the FOID Act requires that an applicant be a resident, with certain exceptions. See 430 ILCS 65/4(a-10). In addition, the FOID Act allows nonresidents to possess a firearm in Illinois without a FOID card in certain instances, including where the nonresident is currently licensed or registered to possess a firearm in his resident state (430 ILCS 65/2(b)(10)); certain nonresident hunters (430 ILCS 65/2(b)(5), (13)); nonresidents while on a firing or shooting range (430 ILCS 65/2(b)(7)); nonresidents while at a firearm showing or display recognized by the Department of State Police (hereinafter referred to as the Illinois State Police or the ISP) (430 ILCS 65/2(8)); and

nonresidents whose firearms are unloaded and enclosed in a case (430 ILCS 65/2(9)).

An application for a FOID card may be denied or revoked based on the applicant's criminal or mental health history (among other reasons not relevant to the issues herein). See generally 430 ILCS 65/8; see also 430 ILCS 65/4(a)(2) (requiring that an applicant submit evidence to the ISP that he meets the qualifications for obtaining a FOID card). Grounds for denial include that the applicant has been convicted of a felony (740 ILCS 65/8(c)); has been convicted within the past five years of battery, assault, aggravated assault, violation of an order of protection, or a substantially similar offense in another jurisdiction in which a firearm was used or possessed (430 ILCS 65/8(k)); has been convicted of domestic battery, aggravated domestic battery, or a substantially similar offense in another jurisdiction before, on, or after January 1, 2012 (the effective date of Public Act 97-158, amending Section 8 of the FOID Act) (430 ILCS 65/8(l)); or is prohibited under an Illinois statute or federal law from acquiring or possessing a firearm or ammunition (430 ILCS 65/8(n)). Those

prohibited by federal law from possessing a firearm include those convicted of a crime punishable by imprisonment for a term exceeding one year; persons adjudicated as a mental defective or who have been committed to a mental institution; and persons convicted in any court of a misdemeanor crime of domestic violence. See 18 U.S.C. § 922(g)(1), (g)(4), (g)(9).

In addition, the FOID card application may be denied or the license revoked if the person has been a patient in a mental health facility within the past five years (430 ILCS 65/8(e)); has been a patient in a mental facility more than five years ago and has not received a certification from a qualified examiner that he is not a clear and present danger to himself or others (Id.); has a mental condition of such a nature that it poses a clear and present danger to the applicant or other person or the community (430 ILCS 65/8(f)); or has been adjudicated a mentally disabled person (430 ILCS 65/8(r)).

The FOID Act also contains a reporting mechanism that allows the ISP to monitor the ongoing qualifications of FOID cardholders. See 430 ILCS 65/8.1. For example, under the FOID Act, Illinois

circuit court clerks and other law enforcement agencies must notify the ISP of certain criminal arrests, charges, and disposition information. See 430 ILCS 65/8.1(a); see also 20 ILCS 2630/2.1 (requiring the clerk of the circuit court, Illinois Department of Corrections, sheriff of each county, and state's attorney of each county to submit certain criminal arrests, charges, and disposition information to the ISP); 20 ILCS 2630/2.2 (requiring the circuit court clerk to report to the ISP's Firearm Owner's Identification Card Office convictions for certain violations of the Criminal Code when the defendant has been determined to be subject to the prohibitions of 18 U.S.C. 922(g)(9)).² In addition, a court that adjudicates an individual as a mentally disabled person or finds that a person has been involuntarily admitted must direct the circuit court clerk to notify the ISP's FOID department and forward a copy of the court order to the ISP. 430 ILCS 65/8.1(b); see also 430 ILCS 65/8.1(b-1) (requiring that the circuit court clerk notify

² Providing that a person convicted of a misdemeanor crime of domestic violence cannot possess a firearm. 18 U.S.C. § 922(g)(9).

the ISP FOID department twice a year if the court has not directed the circuit clerk to notify the ISP FOID department under subsection (b) within the preceding six months because no person has been adjudicated a person with a mental disability or if no person has been involuntarily admitted).

The FOID Act further requires that the Department of Human Services (DHS) report to the ISP all information collected under subsection (b) of Section 12 of the Mental Health and Developmental Disabilities Confidentiality Act “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 purchasing a weapon.” 430 ILCS 65/8.1(c). Section 12(b) of the Mental Health and Developmental Disabilities Confidentiality Act provides that all physicians, clinical psychologists, and qualified examiners must provide notice directly to DHS or his or her employer who shall then notify DHS within 24 hours of determining a person poses a clear and present danger to himself, herself, or others, or within 7 days after a person 14 years

or older is determined to be a person with a developmental disability as described in Section 1.1 of the FOID Act. 740 ILCS 110/12(b). Notice of an admission of a patient—which includes a person who voluntarily receives mental health treatment as an inpatient or resident or who receives mental health treatment as an outpatient and who poses a clear and present danger to himself, herself, or to others—must be furnished to DHS within seven days of admission. Id.; see also 430 ILCS 65/1.1 (defining “patient”).

Similarly, every physician, clinical psychologist, or qualified examiner who determines that a person poses a clear and present danger to himself or others must notify DHS within 24 hours of that determination. 430 ILCS 65/8.1(d)(1). Further, a law enforcement official or school administrator who determines a person poses a clear and present danger to himself or others must notify the ISP within 24 hours of that determination. 430 ILCS 65/8.1(d)(2).

2. The Concealed Carry Act

Illinois also provides a mechanism for individuals to carry a concealed firearm in Illinois by way of the Concealed Carry Act. 430 ILCS 66/1 et seq. Illinois is a “shall issue” state, meaning that

the ISP must issue a license if the applicant meets the qualifications, provides the application and documentation required, submits the requisite fee, and does not pose a danger to himself or a threat to public safety as determined by the Carry Licensing Review Board. 430 ILCS 66/10(a). The license is valid for five years and allows the licensee to carry a loaded or unloaded concealed or partially concealed firearm on or about his person and within a vehicle. 430 ILCS 66/10(c).

To qualify for a concealed carry license, the applicant must be at least 21 years of age; have a valid FOID card and, at the time of the application, meet the requirements for the issuance of a FOID card; have not been in residential or court-ordered treatment for alcoholism, alcohol detoxification, or drug treatment within five years immediately preceding the date of the application; and have completed firearms training. 430 ILCS 66/25(1), (2), (5), (6). In addition, the Concealed Carry Act imposes additional requirements relating to the applicant's criminal history. The applicant must not have been convicted or found guilty in any state of (A) a misdemeanor involving the use or threat of physical force or

violence to any person within five years preceding the date of the application or (B) two or more violations relating to driving while under the influence of drugs or alcohol within five years preceding the date of the application. 430 ILCS 66/25(3). Moreover, the applicant must not be the subject of a pending arrest, warrant, prosecution, or proceeding for an offense or action that could lead to disqualification to own or possess a firearm. 430 ILCS 66/25(4).

The Concealed Carry Act requires that the ISP conduct a background check of the applicants for concealed carry licenses. 430 ILCS 66/35. The background check must consist of a search of the following: the Federal Bureau of Investigation's National Instant Criminal Background Check System (NICS)³; all available state and local criminal history record information files, including records of juvenile adjudications; all available federal, state, and

³ According to the FBI website, NICS is a "national system that checks available records on persons who may be disqualified from receiving firearms." <https://www.fbi.gov/services/cjis/nics/about-nics>. "The NCIS is a computerized background check system designed to respond instantly on most background check inquiries so the [Federal Firearms Licensees] receive an almost immediate response." Id.

local records regarding wanted persons, domestic violence restraining orders, and protective orders; DHS files relating to mental health and developmental disabilities; and all other available records of any federal, state, local agency, or other public entity likely to contain information relevant to whether the applicant is prohibited from purchasing, possessing, or carrying a firearm. 430 ILCS 66/35. The ISP may charge applicants for conducting the criminal history records check but that fee shall not exceed the actual cost of the records check. Id.

The specific statutory provision Plaintiffs challenge here, Section 40 of the Concealed Carry Act, governs nonresident concealed carry license applications. Specifically, this section of the Concealed Carry Act directs the ISP to, by rule, allow for nonresident license applications from any state or territory of the United States with laws related to firearm ownership, possession, and carrying “that are substantially similar to the requirements to obtain a license under” the Concealed Carry Act. 430 ILCS 66/40(b). The ISP currently deems a state’s law substantially similar when:

[t]he comparable state regulates who may carry firearms, concealed or otherwise, in public; prohibits all who have involuntary mental health admissions, and those with voluntary admissions within the past 5 years, from carrying firearms, concealed or otherwise, in public; reports denied persons to NICS; and participates in reporting persons authorized to carry firearms, concealed or otherwise, in public through NLETs [sic] [(the National Law Enforcement Telecommunications System)⁴].

20 Ill. Admin. Code § 1231.10. The four states currently deemed to have substantially similar laws are Arkansas, Mississippi, Texas, and Virginia. See <https://www.ispfsb.com/Public/Faq.aspx> (all websites last visited September 15, 2017).

Only a nonresident applicant from a state with substantially similar laws may apply for a nonresident concealed carry license.

430 ILCS 66/40(c). The nonresident must meet all of the requirements contained in section 25 of the Concealed Carry Act, except for the Illinois residency requirement. 430 ILCS 66/40(c).

The nonresident must submit the application and documents

⁴ NLETS “is the premiere interstate justice and public safety network in the nation for the exchange of law enforcement-, criminal justice-, and public safety-related information.” <http://nlets.org/about/who-we-are>. The ISP uses NLETS to determine if a nonresident’s state-issued concealed carry license is valid. Trame Aff. ¶ 13 (d/e 44-1).

required under Section 30 of the Concealed Carry Act and the applicable fee. 430 ILCS 66/40(c)(1). The fee for a new license or renewal is \$150 for an Illinois resident and \$300 for a nonresident. 430 ILCS 66/60(b), (c).

Nonresidents are also required to meet additional requirements. 430 ILCS 66/40. A nonresident applicant must submit a notarized document affirming that he is eligible to own or possess a firearm under federal law and the laws of his state or territory of residence; that, if applicable, he has a license or permit to carry a firearm, concealed or otherwise, issued by his state; that he understands Illinois law pertaining to the possession and transport of firearms; and acknowledges that he is subject to the jurisdiction of the ISP and Illinois courts for any violation of the Concealed Carry Act. 430 ILCS 66/40(c)(2); see also 430 ILCS 66/40(c)(3), (4) (requiring the applicant to submit a photocopy of any evidence of compliance with the training requirements and a head and shoulder color photograph). In lieu of an Illinois driver's license or Illinois identification card, the nonresident applicant must provide similar documentation from his state or territory of

residence. 430 ILCS 66/40(d). In lieu of a valid FOID card, the nonresident applicant must submit the documentation and information required to obtain a FOID card, including an affidavit that the nonresident meets the mental health standards to obtain a firearm under Illinois law. 430 ILCS 66/40(d) (also requiring that the ISP ensure the applicant would meet the eligibility criteria to obtain a FOID card if he were an Illinois resident).

The Concealed Carry Act specifically provides that nothing in the Act prohibits a nonresident who does not have an Illinois concealed carry license from transporting a concealed firearm in his or her vehicle if the concealed firearm remains in the vehicle and the nonresident is not prohibited from owning a firearm under federal law and is eligible to carry a firearm in public under the laws of his state of residence. 430 ILCS 66/40(e). If the vehicle is unattended, however, the firearm must be stored within a locked vehicle or a locked container. Id.

The Concealed Carry Act imposes an additional reporting obligation on schools. Section 105 requires that school administrators report to the ISP when a student of a public or

private elementary school, secondary school, community college, college, or university is determined to pose a clear and present danger to himself or others within 24 hours of such determination.

430 ILCS 66/105.

3. The ISP Sends Surveys to Other States and the District of Columbia

Pursuant to 20 Ill. Admin. Code § 1231.110(c), the ISP sent Surveys to determine if other states had “substantially similar” firearms laws. Trame Aff. ¶¶ 26-30 (d/e 44-1). Specifically, in 2013, the ISP sent Surveys to each of the 49 other states and the District of Columbia requesting information regarding their regulation of firearms use and reporting and tracking mechanisms relative to criminal activity and mental health issues. Id. ¶ 26. In 2014, the ISP sent a second Survey to those states which did not respond to the first Survey. Id. The following states did not respond to the ISP’s 2013 or 2014 requests for information: Colorado, Maine, Maryland, Massachusetts, Nevada, Pennsylvania, and Rhode Island. Id. ¶ 27. Of those states responding to the 2013 Survey, only Hawaii, New Mexico, South Carolina, and Virginia were

found to have laws similar to Illinois' laws by regulating who may carry firearms in public, reporting persons authorized to carry firearms through NLETS, reporting denied persons through NICS, prohibiting persons voluntarily admitted to a mental health facility within the last five years from possessing or using firearms, and prohibiting persons involuntarily admitted to mental health facilities from possessing or using firearms. Id. ¶ 28.

In 2015, the ISP again sent Surveys to each of the 49 other states and to the District of Columbia requesting information regarding their regulation of firearm use and reporting and tracking mechanisms relative to criminal activity and mental health issues. Trame Aff. ¶ 29. ISP Firearms Services Bureau staff telephoned the states which did not respond to the 2015 Survey to follow up on the status of the states' responses. Id. Colorado and Maryland never responded to the 2015 Survey. Id. ¶ 30.

The 2015 Survey asked:

1. Does your state issue a Concealed Carry License?
 - a. If YES, for what length of time is the license issued?

- b. At what age can an individual apply for a Concealed Carry License?
2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License?
 - a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit?
3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)?
4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed [sic] to a mental institutional (18 U.S.C. 922(g)(4))?
5. Does your state report adjudicated mentally defective/committed persons to the NICS Index?
 - a. If YES, please describe your state's collection/reporting process in accordance with 18 USC 922(g)(4).
 - b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit?
6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years?
 - a. If YES, are mental health admissions reported to your agency by any entity other than the applicant?

If YES, to 6.a., please describe.

b. If YES, does the applicant provide information concerning their mental health status at the time of application?

c. If YES, is there any check or validation of the information provided by the applicant?

If YES to 6.c., please describe.

d. If YES, please provide your state statute reference.

e. If NO, does your state have any process for prohibiting the use or possession of firearms based on a voluntary mental health admission to a treatment facility?

If YES to 6.e., please describe.

7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the consideration of mental health and the use or possession of firearms?

a. If YES, please describe.

8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses the concern of mental health treatment and the possession of firearms?

a. If YES, what is the effective date?

b. If YES, please provide a copy of the legislative language.

See 2015 Survey (d/e 44-2). The ISP found that only four states had laws that were substantially similar to Illinois' laws: Arkansas, Mississippi, Texas, and Virginia. See <https://www.ispfsb.com/Public/Faq.aspx>.

B. The Court Denied Plaintiffs' Motion for Preliminary Injunction, and the Seventh Circuit Affirmed

On August 7, 2015, after the close of fact discovery, Plaintiffs filed a Motion for Preliminary Injunction (d/e 17). The Court held a hearing on the Motion and, on December 4, 2015, denied the Motion. Culp I, 2015 WL 13037427. The Court applied intermediate scrutiny and found that Plaintiffs demonstrated "at least a better-than-negligible likelihood of success on the merits." Id. at *16; see also id. at *17 (finding the likelihood of success "neither strong nor weak"). The Court also found that Plaintiffs could show irreparable harm and no adequate remedy at law. Id. at *16. The Court denied the Motion, however, because the balance of harms and the public interest weighed in favor of denying the preliminary injunction. Id. at *17-18.

On October 20, 2016, the Seventh Circuit affirmed the denial of Plaintiffs' Motion for Preliminary Injunction, with Judge Daniel A. Manion dissenting. Culp v. Madigan, 840 F.3d 400 (7th Cir. 2016) (Culp II). The majority noted that Plaintiffs' claim to be allowed to carry concealed firearms when visiting Illinois "would be compelling if the Illinois authorities could reliably determine whether in fact a nonresident applicant for an Illinois concealed-carry license had all of the qualifications that Illinois, or states that have concealed carry laws substantially similar to Illinois, require to be met." Id. at 402. However, while Illinois state police have access to information about Illinois residents, such information is not reliably accessible regarding nonresident applicants, except in the four substantially similar states. Id. (also noting Jessica Trame's "uncontradicted affidavit" regarding the sources the Illinois Firearms Services Bureau relies on in determining eligibility). The majority noted that, while Illinois can request information from local jurisdictions in other states, those jurisdictions charge a fee, and the Bureau lacks the funds to pay the charges. Id. at 403. The Bureau has also encountered significant difficulties in its efforts to obtain mental

health information about residents of other states, as many states do not track such information. Id.

The majority also noted Illinois' need for reliable information to monitor the holders of gun permits. Culp II, 840 F.3d at 403.

Illinois checks its own databases daily and national databases quarterly for updates that might require a license to be revoked but cannot obtain such updates from states that do not track or report that information. Id.

The majority recognized that Plaintiffs made “some apt criticism of the Illinois law.” Id. For example, an Illinois resident can travel to another state and Illinois authorities will not know if he committed a crime or suffered a mental breakdown while in that other state if it is not one of the four states with substantially similar firearm laws. Id. In addition, anyone who lives in Illinois or one of the four substantially similar states can obtain an Illinois concealed carry license even if he became a resident of that state recently after years of living in a dissimilar state—and Illinois would be unable to obtain information about possible criminal or mental problems in that dissimilar state. Id.

Although the majority concluded the law was imperfect, the majority found it could not say the law was “unreasonable, so imperfect as to justify the issuance of a preliminary injunction.”

Culp II, 840 F.3d at 403. The majority stated:

The critical problem presented by the plaintiffs’ demand—for which they offer no solution—is verification. A nonresident’s application for an Illinois concealed-carry license cannot be taken at face value. The assertions in it must be verified. And Illinois needs to receive reliable updates in order to confirm that license-holders remain qualified during the five-year term of the license. Yet its ability to verify is extremely limited unless the nonresident lives in one of the four states that have concealed-carry laws similar to Illinois’ law. A trial in this case may cast the facts in a different light, but the plaintiffs have not made a case for a preliminary injunction.

Id.

The dissenting judge disagreed with what he called the rational-basis review applied by the majority. Id. at 404 (Manion, J., dissenting). The dissenting judge concluded that “the nonresident application ban functions as a categorical prohibition of applications from the majority of Americans” and constituted a severe burden on Second Amendment rights. Id. at 407.

Accordingly, the dissenting judge applied a level of scrutiny greater

than intermediate scrutiny but not quite strict scrutiny and held that Defendants had to show a close fit between the law and a strong public interest. Id. Applying that level of scrutiny, the dissenting judge stated that Illinois' chosen method of regulating "nonresident concealed-carry license applications is not sufficiently tailored to its goal of properly vetting out-of-state applicants' criminal and mental histories." Id. at 404. The dissenting judge also noted the over-inclusive and under-inclusive sweep of the statute, which undercut Illinois' justification for maintaining the nonresident application ban. Id. at 408-09. The dissenting judge further found that Illinois had not shown that it would be impossible or impracticable for out-of-state residents to provide verified records that would satisfy Illinois' requirements. Id. at 409. Nonresidents could pay for criminal searches and provide relevant records to Illinois. Id. Nonresident applicants could also obtain certification that they satisfy Illinois's mental health requirements. Id. "Potential applicants should at least be given that chance." Id.

C. The Parties Filed Cross Motions for Summary Judgment

In January 2017, the parties filed cross motions for summary judgment. On August 22, 2017, the Court held oral argument on the motions.

Defendants support their Motion for Summary Judgment with the affidavit of Jessica Trame, the Bureau Chief of the ISP Firearms Services Bureau. Trame is responsible for administering the FOID Program, the Firearms Transfer Inquiry Program, and the Concealed Carry Licensing Program and is familiar with the protocols and procedures of each program. Trame Aff. ¶ 2 (d/e 44-1). Trame explains the difficulty of verifying nonresident applicants' identities, criminal history, mental health information, and obtaining updated nonresident information necessary to revoke a concealed carry license. The affidavit submitted in support of summary judgment is substantially the same as the affidavit submitted at the preliminary injunction stage but includes additional information regarding the 2015 Survey. See id.; see also Trame Supp. Aff. (d/e 52-1) (explaining that the ISP recently

reviewed the 2015 Survey data and determined that Arkansas, Mississippi, Texas, and Virginia have substantially similar laws).

According to Trame, the Firearms Services Bureau performs a background check on each applicant for a concealed carry license.

Trame Aff. ¶ 4. This background check process is intended to ensure public safety by identifying persons who are unqualified to carry firearms. Id. ¶ 8.

The background check includes queries of the national systems such as the National Crime Information Center (NCIC),⁵ NICS, the Interstate Identification Index,⁶ Immigration and Customs

⁵ This is the mechanism criminal justice agencies use to access over 13 million active records. The NCIC database consists of 21 files, including 14 “persons” files such as the National Sex Offender Registry, Foreign Fugitives, Immigration Violations, Orders of Protection, and Wanted Persons. See Trame Aff. ¶ 13. “The NCIC has operated under a shared management concept between the FBI and federal, state, local, and tribal criminal justice users since its inception.” See <https://www.fbi.gov/services/cjis/ncic>

⁶ The Interstate Identification Index is the national criminal history record system. See Trame Aff. ¶ 13. As of March 31, 2016, 30 states and the District of Columbia participate only in the Interstate Identification Index while 20 states participate in Interstate Identification Index and the National Fingerprint File. <https://www.fbi.gov/services/cjis/compact-council/interstate-identification-index-iii-national-fingerprint-file-nff>

Enforcement, and NLETS. The Bureau also checks the Illinois systems, including the Criminal History Record Information system, driver's license or identification systems maintained by the Secretary of State, and the Computerized Hot Files system, which is "a central online repository for numerous officer and public safety information repositories" that is maintained by the ISP. *Trame Aff.* ¶ 6.

For Illinois residents, the Firearm Services Bureau is able to locate criminal history through Illinois' Criminal History Record Inquiry, a system maintained by ISP; the Computerized Hot Files; and from federal systems. *Id.* ¶ 11. Because the Bureau does not have direct access to other states' local or state criminal history databases, the Bureau relies on federal databases to obtain out-of-state criminal history information. *Id.* ¶ 12. *Trame* indicates, however, that many states provide the federal databases with only a summary of an arrest. This information is often inadequate to assess an applicant's eligibility for a concealed carry license. *Id.* Although the ISP may request a criminal record if the federal database is incomplete, many jurisdictions charge for records, and

the ISP does not have funds appropriated to pay for any records.

Id.

The ISP uses NLETS to determine whether a nonresident applicant's state-issued concealed carry license is valid and to check the continued validity of the home-state issued concealed carry license. Trame Aff. ¶ 13. The ISP is unable to obtain accurate and updated information via NLETS and NCIC for residents from states which do not fully participate in those systems. Id. ¶ 14.

In addition, information from the Interstate Identification Index may be limited because states are not uniform in their reporting of different levels and types of offenses. Id. ¶ 15. Only the National Fingerprint File (NFF) provides detailed extracts directly from states' local databases. Id. However, as of December 2016, only 20 states participate in the NFF: Colorado, Florida, Georgia, Hawaii, Idaho, Iowa, Kansas, Maryland, Minnesota, Missouri, Montana, North Carolina, New Jersey, New York, Ohio, Oklahoma, Oregon, Tennessee, West Virginia, and Wyoming. Id.

Through the Illinois Department of Human Services FOID Mental Health System, the Firearm Services Bureau can access

information on Illinois mental health facility admissions and determine whether an individual has been involuntarily admitted into a mental health facility in Illinois or been a patient in a mental health facility in Illinois within the past five years or more. Trame Aff. ¶ 17. This System does not, however, contain records on out-of-state mental health facility admissions. Id. ¶ 18. In addition, the ISP does not have access to other states' mental health facility admission databases, to the extent the other states may have them. Id.

Trame states that, in her experience, federal databases contain only limited information regarding involuntary mental health admissions or mental disability adjudications and do not contain voluntary mental health admission information. Trame Aff. ¶ 19. To search for mental health information regarding nonresidents, the ISP is limited to information available through the NICS Index, which contains some information regarding individuals prohibited from firearm possession for mental health reasons under 18 U.S.C. § 922(g)(4) (making it unlawful for any persons who has been adjudicated as a mental defective or who has been committed to a

mental institution from possessing a firearm). Id. ¶ 20. Moreover, not all states participate in the NICS Index. Id. ¶ 20. NICS does not provide any information on voluntary mental health admissions. Id.

On a daily basis, all resident concealed carry license holders are checked against the Illinois Criminal History Record Inquiry and DHS Mental Health Systems (by virtue of their FOID card) for any new conditions that would disqualify them from holding a FOID card or a concealed carry license. Trame Aff. ¶ 21. All concealed carry license holders, both resident and nonresident, are checked against the federal databases on a quarterly basis. Id.

Trame explains in her affidavit why it is difficult for the Firearm Services Bureau to obtain updated nonresident information relevant to revoking a concealed carry license. Trame states that, while Illinois physicians, law enforcement officials, and school administrators are required to report persons that may be a clear and present danger to themselves or others, the ISP does not receive reports from out-of-state physicians, law enforcement officials, or school administrators concerning out-of-state persons

presenting a clear and present danger. Id. ¶ 22. Moreover, daily checks of the DHS Mental Health Systems would not reveal information concerning persons in other states. Id.

In addition, Illinois circuit clerks must report to ISP persons who have been adjudicated as mentally disabled or those involuntary admitted to a mental health facility. Trame Aff. ¶ 23. Trame is not aware of any other state that is required to, or does, report such cases to ISP. Id. Similarly, DHS must report to ISP information collected pertaining to voluntary and involuntary mental health treatment admissions, as well as patients with intellectual or development disabilities or those who have been deemed to be a clear and present danger. Id. ¶ 24.

The ISP can request information from out-of-state mental health entities, but many of the out-of-state mental health entities do not provide mental health information even after an ISP request. Id. ¶ 24. According to Trame, the ISP's lack of access to this type of data held by other states would make it virtually impossible to effectively conduct the level of screening and monitoring on

nonresident concealed carry license applications that is performed on resident applicants. Id. ¶ 25.

II. LEGAL STANDARD

Summary judgment is proper if the movant shows that no genuine dispute exists as to any material fact and that the movant is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a). The movant bears the initial responsibility of informing the court of the basis for the motion and identifying the evidence the movant believes demonstrates the absence of a genuine issue of material fact. Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986). No genuine issue of material fact exists if a reasonable factfinder could not find in favor of the nonmoving party. Brewer v. Bd. of Trs. of the Univ. of Ill., 479 F.3d 908, 915 (7th Cir. 2007). When ruling on a motion for summary judgment, the court must consider the facts in the light most favorable to the nonmoving party, drawing all reasonable inferences in the nonmoving party's favor. Blasius v. Angel Auto., Inc., 839 F.3d 639, 644 (7th Cir. 2016).

III. PLAINTIFFS' REQUEST FOR DISCOVERY

As an initial matter, the Court notes that Plaintiffs assert, in their response to Defendants' Motion for Summary Judgment, that they should have been allowed a brief period to disclose expert witnesses and conduct limited discovery. Pls. Resp. at 7 (d/e 56). Plaintiffs claim that the "entire pendency of this case involved a preliminary injunction Motion and the appeal thereof." Id. Plaintiffs also state that they incorrectly believed that when the appeal was concluded in favor of Defendants there would be a period of time for discovery before dispositive motions were due. Plaintiffs argue that, at a minimum, Defendants' motion should be denied and any factual disputes fleshed out through an abbreviated discovery process.

Plaintiffs' contention that the entire pendency of this case involved a preliminary injunction and an appeal is incorrect. The record reflects that Plaintiffs had the opportunity to conduct discovery and failed to do so.

Plaintiffs filed suit in October 2014. In March 2015, United States Magistrate Judge Tom Schanzle-Haskins entered a

Scheduling Order (d/e 16). The Scheduling Order provided the following deadlines: (1) Plaintiffs shall identify testifying experts and provide Rule 26 expert reports by July 24, 2015; (2) Defendants shall identify testifying experts and provide Rule 26 expert reports by September 22, 2015; (3) the parties shall complete fact discovery by June 24, 2015; (4) the parties shall complete expert discovery by October 22, 2015; and (5) the parties shall file dispositive motions by November 23, 2015. Id.

On August 7, 2015, after the close of fact discovery, Plaintiffs filed the Motion for Preliminary Injunction (d/e 17). On October 16, 2015, the Court held a hearing on the Motion. On November 23, 2015, Defendants filed a Motion for Summary Judgment (d/e 27).

On December 4, 2015, the Court issued a decision denying Plaintiffs' Motion for Preliminary Injunction (d/e 29). Plaintiffs appealed, and the Seventh Circuit affirmed. Culp II, 840 F.3d 400.

On November 16, 2016, following the issuance of the mandate, this Court entered a text order setting the dispositive motion deadline for December 28, 2016 and setting trial and pretrial dates. On December 23, 2016, Plaintiffs filed a motion (d/e 38) seeking an

extension of time to complete discovery and to file motions for summary judgment. Plaintiffs indicated that they wanted the opportunity to disclose an expert witness and allow Defendants the opportunity to depose that witness. Plaintiffs also wanted the opportunity to depose Defendant's main witness, Jessica Trame, and obtain any updated records from Defendants regarding the issues in the case.

On January 3, 2017, Judge Schanzle-Haskins denied Plaintiffs' request to reopen discovery. Opinion and Order (d/e 42). Judge Schanzle-Haskins found that Plaintiff had the opportunity to conduct discovery in this case prior to the discovery deadline but did not do so. Id. at 9. For example, Defendants served Plaintiffs with interrogatories, which asked Plaintiffs to identify any persons who would offer opinion testimony in the case. Id. at 8. Plaintiffs never responded or objected to the interrogatories. Id. In addition, Defendants disclosed Jessica Trame in their initial Rule 26 disclosures. Id. Plaintiffs could have deposed Trame anytime between April 16, 2015 and the close of expert discovery on October 22, 2015. Id. at 9. Plaintiffs apparently made no attempt to take

Trame's deposition. Id. Judge Schanzle-Haskins extended the dispositive motion deadline to January 13, 2017. Plaintiffs did not object to this Order. See Fed. R. Civ. P. 72(a) (providing that a party may object to a magistrate judge's ruling on a nondispositive matter within 14 days after being served with the order and that the party "may not assign as error a defect in the order not timely objected to").

This Court could consider the issue sua sponte and allow discovery if the Court finds Judge Schanzle-Haskins' Order clearly erroneous or contrary to law. See Fed. R. Civ. P. 72(a); Schur v. L.A. Weight Loss Ctrs., Inc. 577 F.3d 752, 760-61 (7th Cir. 2009) (noting that the district judge is not precluded from reviewing a magistrate judge's order even when a party does not object). The Court finds that the Order was neither clearly erroneous nor contrary to law and, therefore, will not reopen discovery. The Court now turns to the merits of the motions for summary judgment.

IV. ANALYSIS

Plaintiffs seek a permanent injunction barring enforcement of Section 40 of the Concealed Carry Act and all other Illinois

statutory language that restrict otherwise-qualified nonresidents of Illinois from carrying concealed firearms based solely on their states of residence. To obtain a permanent injunction, Plaintiffs must prevail on the merits and demonstrate: (1) irreparable injury; (2) inadequate remedy at law; (3) that the balance of hardships favors a remedy in equity; and (4) that the public interest would not be disserved by a permanent injunction. eBay Inc. v. MercExchange, L.L.C., 547 U.S. 388, 391 (2006); Sierra Club v. Franklin Cnty. Power of Ill., LLC, 546 F.3d 918, 935 (7th Cir. 2008).

Plaintiffs move for summary judgment, asserting that Illinois' licensing mechanism is discriminatory and unconstitutionally burdens the exercise of Plaintiffs' constitutional rights.

Defendants move for summary judgment asserting that the challenged regulations are reasonably related to Illinois' important and substantial interest in protecting the public by ensuring initial and continued eligibility for concealed carry licenses and Illinois' related interest in obtaining information necessary to make those determinations.

A. Defendants are Entitled to Summary Judgment on Plaintiffs' Second Amendment Claim

The Second Amendment of the United States Constitution provides:

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

U.S. Const. amend. II. In District of Columbia v. Heller, the United States Supreme Court held that there is a guaranteed “individual right to possess and carry weapons in case of confrontation” based on the Second Amendment. Heller, 554 U.S. 570, 592 (2008) (also holding that the Second Amended “codified a pre-existing right”) (emphasis in original). Consequently, the Court found that the District of Columbia’s ban on handgun possession in the home violated the Second Amendment. Id. at 635.

Nonetheless, the Court recognized that the right was not unlimited, and that:

nothing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications in the commercial sale of arms.

Id. at 627 (also recognizing that limits on the carrying of dangerous and unusual weapons may be imposed); see also McDonald v. City of Chi., 561 U.S. 742, 750 (2010) (finding the Second Amendment fully applicable to the states through the Due Process Clause of the Fourteenth Amendment).

A two-step framework applies when resolving Second Amendment cases. The Court first determines whether the regulated activity falls within the scope of the Second Amendment, and, if so, examines the “strength of the government’s justification for restricting or regulating the exercise of Second Amendment rights.” Ezell v. City of Chi., 651 F.3d 684, 703 (7th Cir. 2011) (Ezell I).

Here, Defendants agree that the regulated conduct falls within the scope of the Second Amendment. Defs. Mot. at 11 (d/e 44); see also Moore v. Madigan, 702 F.3d 933, 942 (7th Cir. 2012) (“The Supreme Court has decided that the amendment confers a right to bear arms for self-defense, which is as important outside the home as inside.”); Southerland v. Escapa, 176 F. Supp. 3d 786, 790 (C.D.

Ill. 2016) (Myerscough, J.) (finding that the acts criminalized by the Illinois statute, “the ability to openly carry any firearm, as well as the ability to carry a concealed firearm aside from pistols, revolvers, and handguns, is clearly within the scope of the Second Amendment”). Therefore, the issue here is the strength of Defendants’ justification for restricting or regulating the exercise of Second Amendment rights. See Ezell v. City of Chi., 846 F.3d 888, 892 (7th Cir. 2017) (Ezell II) (noting that the government bears the burden of justifying the law under a heightened standard of scrutiny).

Under the second step of the framework, the Court must examine the “regulatory means the government has chosen and the public-benefits end it seeks to achieve.” Ezell I, 651 F.3d at 703. The rigor of this review depends on “how close the law comes to the core of the Second Amendment right and the severity of the law’s burden on the right.” Id.; see also Ill. Ass’n of Firearms Retailers v. City of Chi., 961 F. Supp. 2d 928, 935 (N.D. Ill. 2014) (“[T]he level of scrutiny applied varies according to the breadth of the challenged Second Amendment restriction”).

Broad prohibitory laws restricting core Second Amendment rights are likely categorically unconstitutional. Ezell I, 651 F.3d at 703 (citing Heller and McDonald, which involved regulations that prohibited handgun possession in the home). For other laws, however, the appropriate standard of review is somewhere between intermediate and strict scrutiny. As Heller made clear, a rational-basis review is inappropriate in the Second Amendment context. Heller, 554 U.S. at 628 n.27 (holding that “if all that was required to overcome the right to keep and bear arms was a rational basis, the Second Amendment would be redundant with the separate constitutional prohibitions on irrational laws, and would have no effect”); Ezell II, 846 F.3d at 892 (rational-basis review does not apply to laws restricting Second Amendment rights).

When a court applies a standard closer to intermediate scrutiny, the law must be substantially related to an important government interest. See Horsley v. Trame, 808 F.3d 1126, 1132 (7th Cir. 2015) (finding the law “substantially related to the achievement of the state’s interests”); United States v. Shields, 789 F.3d 733, 750 (7th Cir. 2015) (concluding that “keeping firearms

out of the hands of violent felons is an important objective and, because the defendant was a violent felon, applying § 922(g)(1) to the defendant was substantially related to that objective”). When a court applies a stronger form of intermediate scrutiny—one closer to strict scrutiny—the government must demonstrate a strong public-interest justification for the law and a close fit between the law and the public interests the law serves. Ezell I, 651 F. 3d at 708-09; Culp II, 840 F.3d at 407 (noting that when a law “curtails the fundamental right of law-abiding citizens to carry a weapon for self-defense,” the government must show a close fit between the law and a strong public interest) (Manion, J., dissenting).

In deciding the appropriate level of scrutiny here, this Court has the benefit of the Seventh Circuit’s decision on appeal of the denial of a preliminary injunction. Although the Court finds the dissent in Culp II to be a well-reasoned analysis, this Court is bound by the holding of the majority, which appears⁷ to find that

⁷ This Court says “appears” because the dissent accuses the majority of applying a rational-basis review based on the majority holding that the “application ban” was not unreasonable. Culp II, 840 F.3d at 404. However, precedent clearly establishes that a rational-basis review is never applied in the

intermediate scrutiny—and not the near-strict scrutiny applied by the dissent—applies. Culp II, 840 F.3d at 403; Sierra Club v. Khanjee Holding (US) Inc., 655 F.3d 699, 704 (7th Cir. 2011) (“Matters decided on appeal become the law of a case to be followed on a second appeal, unless there is plain error of law in the original decision.”). Applying that level of scrutiny, the Seventh Circuit found, based on the evidence presented at that point, including the uncontroverted affidavit of Trame, that the law was not unreasonable or so imperfect as to justify the issuance of a preliminary injunction. Culp II, 840 F.3d at 403. The majority noted, however, that a trial in the case may cast the facts in a different light. Id.

Second Amendment context. In addition, several courts have used the term “reasonable” when applying intermediate scrutiny. See Nat’l Rifle Ass’n of Am., Inc. v. Bureau of Alcohol, Tobacco, Firearms, and Explosives, 700 F.3d 185, 207 (5th Cir. 2012) (applying intermediate scrutiny to regulations prohibiting firearms dealers from selling handguns to persons under age 21 and examining whether the law was “reasonably adapted to an important government interest”); Ezell I, 651 F.3d at 708 (noting that, in commercial-speech cases, intermediate scrutiny requires a reasonable fit between the legislature’s ends and the means chosen to accomplish those ends).

On summary judgment, Plaintiffs attempt to controvert Trame's affidavit and cast the facts in a different light. Plaintiffs argue that the issues raised by Trame in her Affidavit are outside the scope of the Concealed Carry Act. While this argument is not entirely clear, Plaintiffs seem to be arguing that, under the statutes, Illinois does not play any role in verifying compliance or qualifications of applicants but is limited to checking the available database and records. See Pls. Mem. at 11 (d/e 46) (stating that the applicant is responsible for ensuring eligibility); at 13 ("Defendants cannot deny an application if they either choose to use an imperfect database, or if they get a less than perfect response from their inquiries."); at 13 (the statutes do allow for out-of-state law enforcement objections); at 15 ("The actual reading of the law does not require 'verification' but instead requires the check be made of the six listed categories."); at 15-17 (appearing to suggest that the ISP cannot verify nonresident mental health information under the statutes because nonresidents only have the burden of providing additional notarized statements, affidavits, and other listed documents and that the statute does not allow an application

to be denied if the ISP has difficulty obtaining a “perfect investigation”). According to Plaintiffs, if the available databases and records do not contain information that would bar the applicant, then the State must issue the license.

The Court disagrees that Trame’s affidavit is outside the scope of the Act. The Concealed Carry Act provides that the ISP shall ensure that applicants comply with the requirements of the Act as a condition for licensure. See 430 ILCS 66/35 (“The Department shall conduct a background check of the applicant to ensure compliance with the requirements of this Act and all federal, State, and local laws.”); see also 430 ILCS 66/40(d) (“[T]he Department shall ensure that the applicant would meet the eligibility criteria to obtain a Firearm Owner’s Identification card if he or she was a resident of this State.”); 430 ILCS 66/10 (directing the Department to issue licenses if the applicant, among other things, “meets the qualifications of Section 25 of [the] Act.”). In addition, as the majority in Culp II noted, “[a] nonresident’s application for an Illinois concealed-carry license cannot be taken at face value. The assertions in it must be verified.” Culp II, 840 F.3d at 403. Finally,

to the extent Plaintiffs argue that the legislature did not grant the ISP authority to deny licenses for lack of information, the legislature has expressly directed the ISP to accept applications only from Illinois residents or nonresidents from states having substantially similar firearm laws. See 430 ILCS 66/40(c). An applicant from a state with dissimilar laws is not denied because of a lack of information about the applicant but because the applicant is not from a qualifying state. Therefore, the Court finds that Trame's Affidavit is relevant evidence.

Plaintiffs also assert that Illinois' laws governing nonresidents are arbitrary, pointing to what Plaintiffs contend are discrepancies regarding the Surveys Illinois conducted of other states. Some of the discrepancies Plaintiffs cite appear to have been caused by the fact that Illinois sent out a Survey in 2015 but did not determine which states had substantially similar laws until after Plaintiffs filed their Motion for Summary Judgment in January 2017.

For example, Plaintiffs argue that, as of January 2017, Illinois recognized South Carolina as having substantially similar laws even though South Carolina answered "no" to questions about voluntary

mental health admissions and the question whether South Carolina reported concealed carry licenses via NLETS. Pls. Mem. at 36 (d/e 46) (citing 2015 Survey Response). However, South Carolina was deemed to have substantially similar laws after receipt of the 2013 Survey, in which South Carolina responded “yes” to all of the questions. After Illinois received the 2015 Survey responses—to which South Carolina responded that it did not report concealed carry license via NLETS and did not prohibit use or possession of firearms based on a voluntary mental health admission within the last five years—Illinois determined that South Carolina no longer had substantially similar laws. Compare 2013 Survey (completed in March 2014) (d/e 44-1 at 50 of 87) with 2015 Survey (d/e 44-2 at 142-43 of 166).

Plaintiffs also argue that New Mexico answered the 2013 and 2015 Surveys the same way but was removed from the substantially similar list after the 2015 Survey. Pls. Resp. at 40 (d/e 56). However, in the 2013 Survey (which New Mexico responded to in May 2014), New Mexico answered “yes” to the question, “Does your state prohibit the use or possession of

firearms based on a voluntary mental health admission within the last five years?” See New Mexico Resp. to 2013 Survey (d/e 44-1 at 41 of 87). In response to the same question in 2015, New Mexico answered “no.” See New Mexico Resp. to 2015 Survey (d/e 44-2 at 120 of 166).

Plaintiffs next argue that Arkansas and New Mexico answered the 2015 Survey the same way but only Arkansas is currently deemed to have substantially similar laws. Pls. Resp. at 40. Defendants explain, however, that Arkansas clarified its 2015 Survey response by stating that while there “are no blanket prohibitions on use or possession based on a voluntary admission” within the last five years, an Arkansas applicant is ineligible for a concealed carry license if the applicant has ever been voluntarily admitted to a mental health facility. Arkansas Resp. to 2015 Survey (d/e 44-2 at 15 of 166). New Mexico provided no such clarification.

Plaintiffs argue that Virginia answered “no” to the question asking whether Virginia conducts an NICS background check when Virginia issues a concealed carry license but that Illinois still found

Virginia had substantially similar laws. Pls. Resp. at 41.

Defendants explain that Virginia answered “yes” to the question:

“Does your state report adjudicated mentally defective/committed persons to the NICS Index.” See Virginia Resp. to 2015 Survey (d/e 44-2 at 158 of 166). According to Defendants, the question Virginia answered “yes” to is the critical question for purposes of § 1231.10 and tracks the third requirement of § 1231.10—that the state report denied persons to NICS. Defendants further assert that the “substantially similar” definition does not require that states conduct background checks through NICS. See 20 Ill. Admin. Code § 1231.10 (only defining “substantially similar” as including a state that reports denied persons to NICS).

Plaintiffs also fault the ISP for finding Mississippi substantially similar because Trame, in her affidavit, attested to the difficulty of obtaining criminal history information from Mississippi. See Trame Aff. ¶ 12 (giving Mississippi as an example of a state that reports limited information to the Interstate Identification Index and requires a fee for criminal history information, as much as \$80 for a search of the two criminal courts and two civil courts in just one

county). Defendants explain that, when the Affidavit was prepared, Mississippi had not been deemed to have substantially similar laws and that Trame provided a truthful example of the difficulty of obtaining criminal history information from a state that did not fully participate in federal or multi-state systems. Defendants further state that Mississippi is currently deemed a substantially similar state because Mississippi now participates in reporting persons authorized to carry firearms, concealed or otherwise, in public through NLETS, which was a change from the 2013 Survey Response. Compare Mississippi 2013 Survey Response (d/e 44-1 at 34 of 87) with 2015 Survey Resp. (d/e 44-2 at 106 of 166).

The only “discrepancy” that Plaintiffs cite that appears to have some merit is the claim that Virginia is deemed to have substantially similar laws even though Virginia has no official mechanism for the reporting of voluntary admissions to a mental health treatment facility. Specifically, while Virginia law prohibits use or possession of firearms based on a voluntary mental health admission within the last five years, Virginia relies on self-reporting and does not have a systematic way of checking voluntary

admissions. See Virginia 2015 Survey Resp. (d/e 44-2 at 158-59 of 166).

This shows that Illinois' law is not perfect and could call into question the genuineness of Illinois' alleged need to track voluntary admissions. However, Virginia qualified as a substantially similar state because the definition of "substantially similar" in the regulation requires that the state's law prohibit those with voluntary mental health admissions within the past five years. 20 Ill. Admin. Code § 1231.10. Virginia met that requirement.

Turning to the merits, the Court finds that Illinois has an important and compelling interest in its citizens' safety. Schall v. Martin, 467 U.S. 253, 264 (1984) ("The 'legitimate and compelling state interest' in protecting the community from crime cannot be doubted."). Plaintiffs argue, however, that Defendants have no proof that keeping concealed handguns out of the hands of nonresidents is needed to protect the public. In particular, Plaintiffs cite to scholarly articles suggesting that firearm permit holders—like Plaintiffs, all of whom hold concealed carry licenses in

their home state—are at a low risk of misusing guns. See Pls. Resp. at 43-45.

Long-standing prohibitions on the possession of firearms by felons and the mentally ill are permissible. Heller, 554 U.S. at 627; Moore, 702 F.3d at 940 (“And empirical evidence of a public safety concern can be dispensed with altogether when the ban is limited to obviously dangerous persons such as felons and the mentally ill.”). If prohibitions on the possession of firearms by felons and the mentally ill are permissible, a state must have a way of determining whether an applicant is a felon or mentally ill.

Illinois’ laws are designed to ensure that felons and the mentally ill do not obtain concealed carry licenses. In addition, Illinois’ laws are designed to monitor those who have concealed carry licenses to ensure that the license holders remain qualified. Specifically, the FOID Act and the Concealed Carry Act impose reporting requirements on circuit clerks, physicians, mental health providers, law enforcement agencies, school administrators, and the Department of Human Services so that the ISP can monitor license holders. In addition, Illinois uses federal and Illinois electronic

databases to verify initial eligibility and monitor continued eligibility for concealed carry licenses. On a daily basis, Illinois checks all resident concealed carry license holders against the Illinois Criminal History Record Inquiry and DHS Mental Health Systems. Trame Aff. ¶ 21. Illinois checks all concealed carry license holders, both resident and nonresident, against the federal databases on a quarterly basis. Id.

If another state does not have substantially similar firearm laws as Illinois' laws, Illinois cannot confirm that nonresidents from that state are qualified to hold and maintain an Illinois concealed carry license. For instance, one way Illinois can monitor nonresidents is by use of NLETS. The ISP checks NLETS to confirm that a nonresident's concealed carry license in his home state remains valid. If another state has substantially similar firearm laws and reports concealed carry licenses via NLETS, then Illinois can verify that the nonresident applicant continues to meet Illinois' requirements.

The Court recognizes that Illinois' firearm laws relating to nonresidents is not perfect. Nonetheless, the law is substantially

related to achieving Illinois' interest in keeping the concealed carry licenses out of the hands of felons and the mentally ill. See Culp II, 840 F.3d at 403 (finding at the preliminary injunction stage, on substantially the same evidence, that Illinois' firearms laws relating to nonresidents met intermediate scrutiny). Illinois has a substantial interest in restricting concealed carry licenses to those persons whose qualifications can be verified and monitored. The restriction barring nonresidents from states without substantially similar laws from applying for an Illinois concealed carry license is substantially related to that strong public interest. Consequently, the Court finds that the challenged laws do not violate the Second Amendment.

B. Defendants are Entitled to Summary Judgment on the Remaining Counts

Plaintiffs also claim that the nonresident application regulation/ban is unconstitutional under the Equal Protection Clause, Due Process Clause, and Privileges and Immunities Clause. However, because the nonresident application regulation/ban passes scrutiny under the Second Amendment, then the

regulation/ban passes scrutiny under the other provisions because they do not require a stronger showing.

The Equal Protection Clause requires strict scrutiny of a legislative classification when the classification impermissibly interferes with the exercise of a fundamental right or operates to the disadvantage of a suspect class. Mass. Bd. of Ret. v. Murgia, 427 U.S. 307, 312 (1976). Where a Second Amendment challenge fails, some courts have held that the equal protection claim is subject to rational basis review and other have held the claims is subject to intermediate scrutiny. See, e.g., Kwong v. Bloomberg, 723 F.3d 160, 170 n.19 (2d Cir. 2013) (noting that “courts have applied ‘rational basis’ review to Equal Protection claims on the theory that the Second Amendment analysis sufficiently protects one’s rights); Flanagan v. Harris, No. LA CV 16-06164 JAK (ASx), 2017 WL 729788, at *6 (C.D. Cal. Feb. 23, 2017) (holding that when a law survives a Second Amendment challenge and does not involve a suspect classification, courts have applied rational basis review to equal protection claims, the rationale being that the Second Amendment analysis sufficiently protects the individual’s rights);

United States v. Hayes, No. No. 2:14-CR-72-PPS, 2014 WL 5390553, at *3 (N.D. Ind. Oct. 22, 2014) (noting that the Seventh Circuit has used intermediate scrutiny to review Second Amendment and Equal Protection challenges to some restrictions on gun ownership). In any event, a more stringent level of review does not apply under the Equal Protection Clause than under the Second Amendment in this case.

Plaintiffs argue that the nonresident application ban violates the Privileges and Immunities Clause of Article IV of the Constitution, which provides that “[t]he Citizens of each State [are] entitled to all Privileges and Immunities of Citizens in the several States.” U.S. Const. Art. IV § 2, cl. 1. The purpose of this Clause was “intended to ‘fuse into one Nation a collective of independent, sovereign States.’” Supreme Court of N.H. v. Piper, 470 U.S. 274, 279 (1985) (quoting Toomer v. Witsell, 334 U.S. 385, 395 (1948)). In light of the purpose of the Clause, the United States Supreme Court has held that the State must accord residents and nonresidents equal treatment “[o]nly with respect to those privileges and immunities bearing on the vitality of the Nation as a single

entity.” Piper, 470 U.S. at 279 (internal quotation marks omitted); see also Minix v. Canarecci, No. 305-CV-144-RM, 2007 WL 1662666, at *3 (N.D. Ind. June 6, 2007). Examples of fundamental privileges protected by Article IV’s Privilege and Immunities Clause include pursuit of a common calling and rights to travel and migrate interstate. See United Bldg. & Constr. Trade Council of Camden Cnty & Vicinity v .Mayor & Council of City of Camden, 465 U.S. 208, 219 (1984); Zobel v. Williams, 457 U.S. 55, 78-79 (1982) (O’Connor, J., concurring in the judgment).

When a law deprives nonresidents of a privilege or immunity protected by the Privilege and Immunity Clause, the law is invalid unless (1) there is a substantial reason for the difference in treatment; and (2) the discrimination against nonresidents bears a substantial relationship to the State’s objectives. Barnard v. Thorstenn, 489 U.S. 546, 552 (1989). Even if the right to bear arms constitutes a privilege under the Privilege and Immunities Clause, the standard—requiring a substantial relationship to the State’s objectives—is equal to or less than the standard that applies in the

Second Amendment context in this case. Therefore, Plaintiffs have not shown a violation of the Privilege and Immunities Clause.

Finally, Plaintiffs are not entitled to relief on their Fourteenth Amendment procedural due process claim. When analyzing a procedural due process claim, the Court asks (1) whether there exists a liberty or property interest of which the person has been deprived, and (2) whether the procedures followed were constitutionally sufficient. Swarthout v. Cooke, 562 U.S. 216, 219 (2011); Ky. Dep't of Corr. v. Thompson, 490 U.S. 454, 460 (1989). Plaintiffs assert a liberty or property interest arising out of the Second Amendment. However, because this Court has found no Second Amendment violation, Plaintiffs have not demonstrated that they were deprived of a property or liberty interest.

V. CONCLUSION

For the reasons stated, Defendants' Motion for Summary Judgment (d/e 43) is GRANTED and Plaintiffs' Motion for Summary Judgment (d/e 45) is DENIED. THIS CASE IS CLOSED.

ENTER: September 15, 2017

FOR THE COURT:

s/Sue E. Myerscough
SUE E. MYERSCOUGH
UNITED STATES DISTRICT JUDGE

No. 17-2998

*In The United States Court of Appeals
For the Seventh Circuit*

KEVIN W. CULP, MARLOW DAVIS, FREDDIE REED-DAVIS, DOUGLAS
W. ZYLSTRA, JOHN S. KOLLER, STEVE STEVENSON, PAUL HESLIN,
MARLIN MANGELS, JEANELLE WESTROM, SECOND AMENDMENT
FOUNDATION, INC., ILLINOIS CARRY and ILLINOIS STATE RIFLE
ASSOCIATION,

Plaintiffs-Appellants,

v.

LISA MADIGAN, in her Official Capacity as Attorney General of the State of
Illinois; LEO P. SCHMITZ, in his Official Capacity as Director of the Illinois
State Police, and JESSICA TRAME, as Bureau Chief of the Illinois State
Police Firearms Services Bureau,

Defendants-Appellees.

Appeal from a Judgment of the United States District Court
for the Central District of Illinois
The Hon. Sue E. Myerscough, District Judge
Case No. 3:14-CV-3320

APPELLANTS' SEPARATE APPENDIX

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Dated: November 7, 2017

Respectfully submitted,

By: /s/David G. Sigale
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**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
SPRINGFIELD DIVISION**

KEVIN W. CULP, MARLOW DAVIS,)
FREDDIE REED-DAVIS,)
DOUGLAS W. ZYLSTRA,)
JOHN S. KOLLER, STEVE STEVENSON,)
PAUL HESLIN, MARLIN MANGELS,)
GUS C. BROWNE II,)
JEANELLE WESTROM,)
SECOND AMENDMENT FOUNDATION,)
INC., ILLINOIS CARRY and)
ILLINOIS STATE RIFLE ASSOCIATION,)

Plaintiffs,)

v.)

Case No.)

LISA MADIGAN, in her Official Capacity)
as Attorney General of the State of Illinois;)
HIRAM GRAU, in his Official Capacity as)
Director of the Illinois State Police, and)
JESSICA TRAME, as Bureau Chief of the)
Illinois State Police Firearms Services)
Bureau,)

Defendant.)

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs, KEVIN W. CULP, MARLOW DAVIS, FREDDIE REED-DAVIS,
DOUGLAS W. ZYLSTRA, JOHN S. KOLLER, STEVE STEVENSON, PAUL
HESLIN, MARLIN MANGELS, GUS C. BROWNE II, JEANELLE WESTROM,
SECOND AMENDMENT FOUNDATION, INC., ILLINOIS CARRY, and ILLINOIS
STATE RIFLE ASSOCIATION, by and through undersigned counsel, as and for
their Complaint against Defendants LISA MADIGAN, in her Official Capacity as
Attorney General of the State of Illinois; HIRAM GRAU, in his Official Capacity as

Director of the Illinois State Police, and JESSICA TRAME, as Bureau Chief of the Illinois State Police Firearms Services Bureau, allege as follows:

INTRODUCTION

1. This is an action pursuant to 42 U.S.C. § 1983 for deprivation of civil rights under color of law, which seeks equitable, declaratory, and injunctive relief challenging the State of Illinois's prohibition on virtually all otherwise qualified non-Illinois residents from obtaining a concealed carry license, pursuant to Illinois Compiled Statute ("ILCS") 430 ILCS 66/40.

2. The Second Amendment "guarantee[s] the individual right to possess and carry weapons in case of confrontation," *District of Columbia v. Heller*, 554 U.S. 570, 128 S.Ct. 2783, 2797 (2008), and is "fully applicable against the States," *McDonald v. City of Chicago*, 561 U.S. 3025, 130 S. Ct. 3020, 3026 (2010).

3. The Seventh Circuit, in *Moore v. Madigan*, 702 F.3d 933 (7th Cir. 2012) held that the Second Amendment right to armed self-defense extends outside of the home. As a result, the State passed the Firearms Concealed Carry Act in July, 2013.

4. However, the laws of Illinois, as applied by the Defendants, prohibit most non-Illinois residents from obtaining a license for the concealed carry of guns, in public, for the purpose of self-defense. In Illinois, only residents of the State, plus residents of only four other states (Hawaii, New Mexico, South Carolina, and Virginia), may have the benefit of applying for and obtaining an Illinois license for armed defense by concealed carry.

5. Plaintiffs seek to establish that the recognition and incorporation of the Second Amendment, and the Fourteenth Amendment's due process and equal protection clauses, plus the U.S. Constitution itself, renders the State's ban on virtually all non-Illinois residents from obtaining a concealed carry license unconstitutional. As the Plaintiffs only seek to be treated the same as law-abiding Illinois residents, the Second and Fourteenth Amendments, and Article IV, §2 of the Constitution, render a virtual ban such as that challenged in this action impermissible.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331, 1343, 2201, 2202 and 42 U.S.C. § 1983, in that this action seeks to redress the deprivation, under color of the laws, statute, ordinances, regulations, customs, and usages of the Defendants as they execute, administer and enforce the complained-of laws, of the rights, privileges or immunities secured by the United States Constitution and by Acts of Congress.

7. This Court has personal jurisdiction over the Defendants because, *inter alia*, they acted under the color of laws, policies, customs, and/or practices of the State of Illinois and/or within the geographic confines of the State of Illinois.

8. Venue is proper pursuant to 28 U.S.C. § 1391 because the Defendants execute, administer, and enforce the complained-of laws against Plaintiffs in this District, and because the events and omissions giving rise to this action are

harming Plaintiffs in this District, and the State laws were enacted in the State capital in this District.

9. Pursuant to CDIL-LR 40.1(F), the Springfield Division is proper for this action because Defendants maintain their offices in Sangamon County and because the events and omissions giving rise to this action are State laws enacted in the State capitol of Springfield.

PLAINTIFFS

10. KEVIN W. CULP is a natural person and a resident of the City of Blairsville, State of Pennsylvania. Culp is an Air Force Colonel stationed on orders at Scott Air Force Base near Belleville, IL, but is a legal resident of Pennsylvania who possesses a Pennsylvania driver's license and Pennsylvania license to carry a concealed weapon, as well as a concealed carry license from Florida. Culp is also a Basic Pistol Instructor and meets the qualifications to be an Illinois concealed carry licensing instructor.

11. MARLOW DAVIS is a natural person and a resident of the City of Milwaukee, State of Wisconsin. He possesses a Wisconsin driver's license and a Wisconsin license to carry a concealed weapon. He is retired and spends approximately half of his time in Chicago. He is the husband of co-Plaintiff Freddie Reed-Davis.

12. FREDDIE REED-DAVIS is a natural person and a resident of the City of Milwaukee, State of Wisconsin. She is the wife of co-Plaintiff Marlow Davis. She

possesses a Wisconsin driver's license and a Wisconsin license to carry a concealed weapon. She is a nurse working in Chicago.

13. DOUGLAS W. ZYLSTRA is a natural person and a resident of the City of Munster, State of Indiana. He possesses an Indiana driver's license and an Indiana license to carry a concealed weapon, as well as a concealed carry license and instructor certification from Utah. Zylstra is an Illinois State Police certified concealed carry instructor working for a firearm training company in Lansing, Illinois.

14. JOHN S. KOLLER is a natural person and a resident of the City of Castle Rock, State of Colorado. He possesses a Colorado driver's license and a Colorado license to carry a concealed weapon, as well as concealed carry licenses from Utah, Nevada and Arizona. Koller was born & raised in Chicago, Illinois, and still has family in the Chicago area, who he visits. He also makes periodic business trips to Illinois.

15. STEVEN STEVENSON is a natural person and a resident of the City of Aurora, State of Colorado. He possesses a Colorado driver's license. Stevenson has a Colorado resident concealed carry license, as well as a concealed carry license from Utah, and must occasionally traverse Illinois on I-80 or I-88 to visit relatives in both Illinois and Michigan.

16. PAUL HESLIN is a natural person and a resident of the City of Defiance, State of Missouri. He is originally from Lake County, Illinois. He possesses a Missouri driver's license and a Missouri license to carry a concealed

weapon, as well as a concealed carry license from Florida, and a Class 3 federal firearms license. He is also an Illinois certified concealed carry instructor.

17. MARLIN MANGELS is a natural person and a resident of the City of Keokuk, State of Iowa. He possesses an Iowa driver's license and an Iowa license to carry a concealed weapon, as well as concealed carry licenses from Utah and Arizona. Keokuk is just across the Mississippi River from Hamilton, Illinois. Mangels frequently rides his bicycle up the River Road in Illinois, eats in restaurants in Hamilton, Illinois, travels to see his wife's family in the Chicago area, and travels I-80 through Illinois to visit friends in Massachusetts.

18. GUS BROWNE is a natural person and a resident of the City of South Bend, State of Indiana. He possesses an Indiana driver's license and an Indiana license to carry a concealed weapon. He also has a residence in Kankakee, Illinois, where he spends much of his time.

19. JEANELLE WESTROM is a natural person and a resident of the City of Davenport, Iowa. She possesses an Iowa driver's license and an Iowa license to carry a concealed weapon, as well as one in Georgia. She has a firearms business in Davenport, Iowa but also a separate firearms business in Geneseo, Illinois, where she spends a considerable amount of her time. Westrom also possesses three federal firearms licenses, which are required for her businesses.

20. The individual Plaintiffs are licensed to possess concealed handguns in their states of residence, but are prohibited by 430 ILCS 66/40 from obtaining Illinois concealed carry permits, and thus carrying a handgun in a concealed

manner in Illinois for self-defense. This is because their states of residence are not approved for applications for concealed carry licensing by the Defendants.

21. The individual Plaintiffs would apply for and obtain an Illinois concealed carry license, and would carry a loaded and functional concealed handgun in public in a concealed manner for self-defense, but refrain from doing so because they fear arrest, prosecution, fine, and imprisonment as they understand it is unlawful for an unlicensed individual to carry a concealed handgun in Illinois.

22. SAF is a non-profit membership organization incorporated under the laws of Washington with its principal place of business in Bellevue, Washington. SAF's membership includes non-residents of Illinois who wish to obtain an Illinois concealed carry license but do not have a concealed carry license from an "approved state" according to the Illinois State Police. SAF has over 650,000 members and supporters nationwide. The purposes of SAF include education, research, publishing and legal action focusing on the Constitutional right privately to own and possess firearms. SAF brings this action on behalf of itself and its members.

23. Members of SAF who are not residents of Illinois and do not have concealed carry licenses from an approved state, and thus are prohibited from applying for and obtaining an Illinois concealed carry license, would carry a loaded and functional concealed handgun in public in a concealed manner for self-defense, but refrain from doing so because they fear arrest, prosecution, fine, and imprisonment as they understand it is unlawful for an unlicensed individual to carry a concealed handgun in Illinois.

24. ILLINOIS CARRY is a non-profit membership organization incorporated under the laws of Illinois with its principal place of business in Shelbyville, Illinois. Illinois Carry has over 10,000 members and supporters in Illinois, and many members outside the State of Illinois. Illinois Carry is dedicated to the preservation of Second Amendment rights. Among Illinois Carry's purposes are educating the public about Illinois laws governing the purchase and transportation of firearms, aiding the public in every way in its power, and supporting and defending the people's right to keep and bear arms, including the right of its members and the public to purchase, possess, and carry firearms.

25. Members of IC who are not residents of Illinois and do not have concealed carry licenses from an approved state, and thus are prohibited from applying for and obtaining an Illinois concealed carry license, would carry a loaded and functional concealed handgun in public in a concealed manner for self-defense, but refrain from doing so because they fear arrest, prosecution, fine, and imprisonment as they understand it is unlawful for an unlicensed individual to carry a concealed handgun in Illinois.

26. ILLINOIS STATE RIFLE ASSOCIATION is a non-profit membership organization incorporated under the laws of Illinois with its principal place of business in Chatsworth, Illinois. ISRA has over 17,000 members and supporters in Illinois, and many members outside the State of Illinois. The purposes of ISRA include securing the Constitutional right to privately own and possess firearms

within Illinois, through education, outreach, and litigation. ISRA brings this action on behalf of itself and its members.

27. Members of ISRA who are not residents of Illinois and do not have concealed carry licenses from an approved state, and thus are prohibited from applying for and obtaining an Illinois concealed carry license, would carry a loaded and functional concealed handgun in public in a concealed manner for self-defense, but refrain from doing so because they fear arrest, prosecution, fine, and imprisonment as they understand it is unlawful for an unlicensed individual to carry a concealed handgun in Illinois.

28. The individual Plaintiffs are members of the above-named organizations.

DEFENDANTS

29. Defendant Attorney General LISA MADIGAN is sued in her official capacity as the Attorney General of the State of Illinois, responsible for executing and administering the laws of the State of Illinois, including 430 ILCS 66/40. Defendant Attorney General Madigan has enforced the challenged laws, customs and practices against Plaintiffs and is in fact presently enforcing the challenged laws, customs and practices against Plaintiffs.

30. Defendant HIRAM GRAU is the Director of the Illinois State Police, and is the person ultimately responsible for executing and administering the laws of the State of Illinois, including Section 66/40 of the FCCA. He is sued in his official capacity.

31. Defendant JESSICA TRAME is the Bureau Chief of Firearms Services for the Illinois State Police. She is the ISP employee directly responsible for the administration of the FCCA, and is the ISP employee directly responsible for the denial of concealed carry licensing to the Plaintiffs. She is sued in her official capacity.

CONSTITUTIONAL PROVISIONS

32. The Second Amendment provides:

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

U.S. Const. amend. II.

33. The Second Amendment “is fully applicable against the States.”

McDonald v. City of Chicago, 561 U.S. 3025, 130 S. Ct. 3020, 3026 (2010).

34. Section 1 of the Fourteenth Amendment provides, in relevant part:

No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; **nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.**

U.S. Const. amend. XIV (emphasis added).

35. Article IV, Section 2 of the United States Constitution provides: “The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.”

36. There is a fundamental right to carry handguns for self-defense in public. *Moore v. Madigan*, 702 F.3d 933 (7th Cir., 2012).

STATE LAW

37. 430 ILCS 66/40 provides in pertinent part:

(a) For the purposes of this Section, “non-resident” means a person who has not resided within this State for more than 30 days and resides in another state or territory.

(b) The Department shall by rule allow for non-resident license applications from any state or territory of the United States with laws related to firearm ownership, possession, and carrying, that are substantially similar to the requirements to obtain a license under this Act.

(c) A resident of a state or territory approved by the Department under subsection (b) of this Section may apply for a non-resident license. The applicant shall apply to the Department and must meet all of the qualifications established in Section 25 of this Act, except for the Illinois residency requirement in item (xiv) of paragraph (2) of subsection (a) of Section 4 of the Firearm Owners Identification Card Act....

38. According to the Illinois State Police website, “substantially similar” as used in the paragraph above means “the comparable state regulates who may carry firearms, concealed or otherwise, in public; prohibits all who have involuntary mental health admissions, and those with voluntary admissions within the past 5 years, from carrying firearms, concealed or otherwise, in public; reports denied persons to NICS; and participates in reporting persons authorized to carry firearms, concealed or otherwise, in public through Nlets.”

39. The Illinois State Police has deemed Hawaii, New Mexico, South Carolina and Virginia “substantially similar” for non-resident application purposes. None of the individual Plaintiffs reside in these states.

40. 720 ILCS 5/24-1 provides in pertinent part:

Sec. 24-1. Unlawful Use of Weapons

(a) A person commits the offense of unlawful use of weapons when he knowingly:

(4) Carries or possesses in any vehicle or concealed on or about his person except when on his land or in his own abode, legal dwelling, or fixed place of business, or on the land or in the legal dwelling of another person as an invitee with that person's permission, any pistol, revolver, stun gun or taser or other firearm. . . ; or...

(10) Carries or possesses on or about his person, upon any public street, alley, or other public lands within the corporate limits of a city, village or incorporated town, except when an invitee thereon or therein, for the purpose of the display of such weapon or the lawful commerce in weapons, or except when on his land or in his own abode, legal dwelling, or fixed place of business, or on the land or in the legal dwelling of another person as an invitee with that person's permission, any pistol, revolver, stun gun or taser or other firearm.

(b) Sentence. A person convicted of a violation of subsection 24-1(a)(1) through (5), subsection 24-1(a)(10), subsection 24-1(a)(11), or subsection 24-1(a)(13) commits a Class A misdemeanor.

41. 720 ILCS 5/24-1.6 provides in pertinent part:

Sec. 24-1.6. Aggravated unlawful use of a weapon

(a) A person commits the offense of aggravated unlawful use of a weapon when he or she knowingly:

(1) Carries on or about his or her person or in any vehicle or concealed on or about his or her person except when on his or

her land or in his or her abode, legal dwelling, or fixed place of business, or on the land or in the legal dwelling of another person as an invitee with that person's permission, any pistol, revolver, stun gun or taser or other firearm; or

(2) Carries or possesses on or about his or her person, upon any public street, alley, or other public lands within the corporate limits of a city, village or incorporated town, except when an invitee thereon or therein, for the purpose of the display of such weapon or the lawful commerce in weapons, or except when on his or her own land or in his or her own abode, legal dwelling, or fixed place of business, or on the land or in the legal dwelling of another person as an invitee with that person's permission, any pistol, revolver, stun gun or taser or other firearm; and

(3) One of the following factors is present:

(A) the firearm possessed was uncased, loaded and immediately accessible at the time of the offense; or

(B) the firearm possessed was uncased, unloaded and the ammunition for the weapon was immediately accessible at the time of the offense.

(d) Sentence.

(1) Aggravated unlawful use of a weapon is a Class 4 felony; a second or subsequent offense is a Class 2 felony for which the person shall be sentenced to a term of imprisonment of not less than 3 years and not more than 7 years.

42. A person who is carrying a concealed handgun in public for self-defense is subject to the above-referenced criminal penalties (with certain exceptions that do not apply to any of the Plaintiffs) unless the person had a valid Illinois concealed carry permit per 720 ILCS 5/24-1.6(3)(A-5),(B-5) and 720 ILCS 5/24-2(a-5).

COUNT I— VIOLATION OF RIGHT TO KEEP AND BEAR FIREARMS
(U.S. CONST. AMENDS. II AND XIV; 42 U.S.C. § 1983)

43. Paragraphs 1 through 42 are realleged and incorporated herein by reference.

44. The residency requirement contained in 430 ILCS 66/40, and all other Illinois statutory language, which restricts otherwise qualified non-residents of Illinois the rights and privileges of carrying concealed firearms based solely on their State of residence, on their face and as applied, violate the Plaintiffs' individual right to possess and carry a handgun for self-defense as secured by the Second Amendment to the United States Constitution.

COUNT II - VIOLATION OF EQUAL PROTECTION
(U.S. CONST. AMEND. XIV; 42 U.S.C. 1981(a), 1983)

45. Paragraphs 1 through 44 are realleged and incorporated herein by reference.

46. The residency requirement contained in 430 ILCS 66/40, and all other Illinois statutory language, which restricts otherwise qualified non-residents of Illinois the rights and privileges of carrying concealed firearms based solely on their State of residence, on their face and as applied, are unconstitutional denials of equal protection of the laws and are in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

COUNT III - VIOLATION OF DUE PROCESS
(U.S. CONST. AMEND. XIV; 42 U.S.C. § 1983)

47. Paragraphs 1 through 46 are realleged and incorporated herein by reference.

48. The residency requirement contained in 430 ILCS 66/40, and all other Illinois statutory language, which restricts otherwise qualified non-residents of Illinois the rights and privileges of carrying concealed firearms based solely on their State of residence, violates the right to due process of the law secured by the Due Process Clause of the Fourteenth Amendment to the United States Constitution, facially and as applied to the individual Plaintiffs in this action, damaging the Plaintiffs in violation of 42 U.S.C. 1983.

COUNT IV - VIOLATION OF PRIVILEGES AND IMMUNITIES
(U.S. CONST. ART. IV, § 2)

49. Paragraphs 1 through 48 are realleged and incorporated herein by reference.

50. The residency requirement contained in 430 ILCS 66/40, and all other Illinois statutory language, which restrict otherwise qualified non-residents of Illinois the rights and privileges of carrying concealed firearms based solely on their State of residence, discriminates against the Plaintiffs, under Article IV, § 2 of the United States Constitution, by denying them the Privileges and Immunities granted to Illinois residents merely because they are not residents of Illinois, facially and as applied to said individual Plaintiffs in this action.

51. The residency requirement contained in 430 ILCS 66/40, and all other Illinois statutory language, which restrict otherwise qualified non-residents of Illinois the rights and privileges of carrying concealed firearms based solely on their State of residence, also violates the right to travel secured by the Privileges and Immunities Clause of Article IV, § 2 of the United States Constitution, facially and as applied to the individual Plaintiffs in this action.

FOR ALL COUNTS

52. Paragraphs 1 through 51 are realleged and incorporated herein by reference.

53. A controversy exists as to whether the residency and reciprocity requirements contained in 430 ILCS 66/40 are unconstitutional.

54. A declaration from this Court would settle this issue.

55. A declaration would also serve a useful purpose in clarifying the legal issues in dispute.

56. The Plaintiffs seek a declaration that the Illinois residency requirement contained in 430 ILCS 66/40, as applied to Plaintiffs, is unconstitutional.

57. In the absence of an injunction, the residency requirements of 430 ILCS 66/40 would continue to be enforced and would prevent the individual Plaintiffs and organizational Plaintiffs' non-Illinois members who wish to obtain a concealed carry license for armed self-defense while in the State of Illinois, from (1) successfully obtaining a concealed carry permit and/or (2) legally carrying a

handgun in a concealed manner that any otherwise-qualified Illinois residents may possess and carry concealed in public.

58. The Plaintiffs would continue to suffer irreparable injury if the Court does not issue an injunction.

59. There is no adequate remedy at law because only a declaration and injunction, as opposed to monetary damages, would allow the individual Plaintiffs, and SAF's, IC's and ISRA's non-Illinois members who wish to obtain a concealed carry license for armed self-defense while in the State of Illinois, the opportunity to obtain a permit to carry a handgun in a concealed manner for self-defense.

WHEREFORE, Plaintiffs pray that this Honorable Court:

1. Issue preliminary and permanent injunctions (a) enjoining Defendants LISA MADIGAN, in her Official Capacity as Attorney General of the State of Illinois; HIRAM GRAU, in his Official Capacity as Director of the Illinois State Police, and JESSICA TRAME, as Bureau Chief of the Illinois State Police Firearms Services Bureau from enforcing the virtual non-resident CCL ban of 430 ILCS 66/40 against the Plaintiffs and/or their members; and

2. Enter the following:

(a) A declaratory judgment that 430 ILCS 66/40, and all other Illinois statutory language which restricts otherwise qualified non-residents of Illinois the rights and privileges of carrying concealed firearms based solely on their State of residence, are null and void

because they (1) violate the due process requirements and equal protection of the laws guaranteed by the Fourteenth Amendment to the United State Constitution; and (ii) infringe on the right of the people to keep and bear arms in violation of the Second and Fourteenth Amendments to the United States Constitution; and

(b) Issue preliminary and permanent injunctions against the Defendants and their political subdivisions, including officers, agents, and employees thereof, from enforcement of 430 ILCS 66/40 and all other Illinois statutory language, which restrict otherwise qualified non-residents of Illinois the rights and privileges of carrying concealed firearms based solely on their State of residence.

3. Award Plaintiffs attorney's fees and costs pursuant to 42 U.S.C. § 1988.

4. Grant such other and further relief, in law and equity, as the Court deems just and proper.

Dated: October 22, 2014

Respectfully submitted,

By: /s/ David G. Sigale
Attorney for Plaintiffs

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**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
SPRINGFIELD DIVISION**

KEVIN W. CULP, MARLOW DAVIS,
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DOUGLAS W. ZYLSTRA,
JOHN S. KOLLER, STEVE STEVENSON,
PAUL HESLIN, MARLIN MANGELS,
JEANELLE WESTROM,
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INC., ILLINOIS CARRY and
ILLINOIS STATE RIFLE ASSOCIATION,

Plaintiffs,

v.

LISA MADIGAN, in her Official Capacity
as Attorney General of the State of Illinois;
HIRAM GRAU, in his Official Capacity as
Director of the Illinois State Police, and
JESSICA TRAME, as Bureau Chief of the
Illinois State Police Firearms Services
Bureau,

Defendants.

Case No. 3:14-CV-3320-SEM-TSH

NOTICE OF APPEAL

Plaintiffs, KEVIN W. CULP, MARLOW DAVIS, FREDDIE REED-DAVIS, DOUGLAS W. ZYLSTRA, JOHN S. KOLLER, STEVE STEVENSON, PAUL HESLIN, MARLIN MANGELS, JEANELLE WESTROM, SECOND AMENDMENT FOUNDATION, INC., ILLINOIS CARRY and ILLINOIS STATE RIFLE ASSOCIATION, do hereby appeal to the United States Court of Appeals for the Seventh Circuit from the judgment of this Court entered on September 19, 2017, that denied Plaintiffs' Motion for Summary Judgment and granted Defendants' Motion for Summary Judgment (Dkt. #62), and the decision stating same, entered on September 18, 2017 (Dkt. #61).

By: /s/ David G. Sigale
David G. Sigale
Attorney for Plaintiffs

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as Attorney General of the State of Illinois;
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Director of the Illinois State Police, and
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Case No. 3:14-CV-3320-SEM-TSH

PLAINTIFFS' F.R.CIV.P. 56(a) MOTION FOR SUMMARY JUDGMENT

NOW COME the Plaintiffs, KEVIN W. CULP, MARLOW DAVIS, FREDDIE REED-DAVIS, DOUGLAS W. ZYLSTRA, JOHN S. KOLLER, STEVE STEVENSON, PAUL HESLIN, MARLIN MANGELS, JEANELLE WESTROM, SECOND AMENDMENT FOUNDATION, INC., ILLINOIS CARRY and ILLINOIS STATE RIFLE ASSOCIATION, by and through undersigned counsel, and, pursuant to Rule 56(a) of the Federal Code of Civil Procedure (F.R.Civ.P. 56(a)), move this Honorable Court to enter summary judgment in their favor. A Memorandum in Support of this Motion will be filed at or near the time of the filing of this Motion.

Dated: January 13, 2017

Respectfully submitted,

By: /s/ David G. Sigale
Attorney for Plaintiffs

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CERTIFICATE OF ATTORNEY AND NOTICE OF ELECTRONIC FILING

The undersigned certifies that:

1. On January 13, 2017, the foregoing document was electronically filed with the District Court Clerk *via* CM/ECF filing system;
2. Pursuant to F.R.Civ.P. 5, the undersigned certifies that, to his best information and belief, there are no non-CM/ECF participants in this matter.

/s/ David G. Sigale

Attorney for Plaintiffs

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Case No. 3:14-CV-3320-SEM-TSH

LISA MADIGAN, in her Official Capacity)
as Attorney General of the State of Illinois;)
HIRAM GRAU, in his Official Capacity as)
Director of the Illinois State Police, and)
JESSICA TRAME, as Bureau Chief of the)
Illinois State Police Firearms Services)
Bureau,)

Defendants.)

DECLARATION OF STEVE STEVENSON

I, Steve Stevenson, am competent to state, and declare the following based on my personal knowledge:

1. I am a resident of the City of Aurora, State of Colorado. I possess a Colorado driver's license. I have a Colorado resident concealed carry license, as well as a concealed carry license from Utah, and must occasionally traverse Illinois on I-80 or I-88 to visit relatives in both Illinois and Michigan.

2. I am allowed to possess a firearm in Illinois only on my premises, or on someone else's premises with permission, but I am prohibited by 430 ILCS 66/40 from obtaining a concealed carry permit, and thus carrying a handgun in a concealed manner for self-defense.

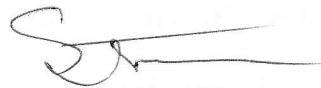
3. I am otherwise qualified to apply for a concealed carry permit in Illinois, except for 430 ILCS 66/40.

4. I would carry a loaded and functional concealed handgun in public for self-defense, but I refrain from doing so because I fear arrest, prosecution, fine, and imprisonment as I understand it is unlawful for non-residents from Colorado to carry a concealed handgun in Illinois, or even to apply for a license to do so.

5. I am a member of the Second Amendment Foundation, Illinois State Rifle Association, and Illinois Carry.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this the 2nd day of June, 2015.



Steve Stevenson

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
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DOUGLAS W. ZYLSTRA,)
JOHN S. KOLLER, STEVE STEVENSON,)
PAUL HESLIN, MARLIN MANGELS,)
GUS C. BROWNE II,)
JEANELLE WESTROM,)
SECOND AMENDMENT FOUNDATION,)
INC., ILLINOIS CARRY and)
ILLINOIS STATE RIFLE ASSOCIATION,)

Plaintiffs,)

v.)

Case No. 3:14-CV-3320-SEM-TSH

LISA MADIGAN, in her Official Capacity)
as Attorney General of the State of Illinois;)
HIRAM GRAU, in his Official Capacity as)
Director of the Illinois State Police, and)
JESSICA TRAME, as Bureau Chief of the)
Illinois State Police Firearms Services)
Bureau,)

Defendants.)

DECLARATION OF JULIANNE H. VERSNEL

I, Julianne H. Versnel, am competent to state, and declare the following based on my personal knowledge:

1. I am the Director of Operations of the Second Amendment Foundation (“SAF”).

2. SAF is a non-profit membership organization incorporated under the laws of Washington with its principal place of business in Bellevue, Washington. SAF has over 650,000 members and supporters nationwide, including thousands in Illinois. The purposes of SAF include education, research, publishing and legal action focusing on the Constitutional right to privately own and possess firearms, and the consequences of gun control.

3. SAF has individual members and supporters who are adversely impacted by 430 ILCS 66/40.

4. But for the criminal enactments challenged in this complaint, SAF members who are non-residents of Illinois, who nonetheless work in, travel to, and spend significant amounts of time within Illinois would apply for concealed carry permits in order to carry concealed firearms for their own defense, but they refrain from carrying concealed firearms for fear of arrest, prosecution, fine and incarceration.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this the 1st day of June, 2015.

A handwritten signature in black ink, appearing to read "Julianne H. Versnel". The signature is fluid and cursive, with the first letter of the first name being a large, stylized 'J'.

Julianne H. Versnel

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
SPRINGFIELD DIVISION**

KEVIN W. CULP, MARLOW DAVIS,)
 FREDDIE REED-DAVIS,)
 DOUGLAS W. ZYLSTRA,)
 JOHN S. KOLLER, STEVE STEVENSON,)
 PAUL HESLIN, MARLIN MANGELS,)
 GUS C. BROWNE II,)
 JEANELLE WESTROM,)
 SECOND AMENDMENT FOUNDATION,)
 INC., ILLINOIS CARRY and)
 ILLINOIS STATE RIFLE ASSOCIATION,)

Plaintiffs,)

v.)

Case No. 3:14-CV-3320-SEM-TSH

LISA MADIGAN, in her Official Capacity)
 as Attorney General of the State of Illinois;)
 HIRAM GRAU, in his Official Capacity as)
 Director of the Illinois State Police, and)
 JESSICA TRAME, as Bureau Chief of the)
 Illinois State Police Firearms Services)
 Bureau,)

Defendants.)

DECLARATION OF PAUL HESLIN

I, Paul Heslin, am competent to state, and declare the following based on my personal knowledge:

1. I am a resident of the City of Defiance, State of Missouri. I am originally from Lake County, Illinois. I possess a Missouri driver's license and a Missouri license to carry a concealed weapon, as well as a concealed carry license from Florida, and a Type 03 federal firearms license.

2. I am also an Illinois certified concealed carry instructor.

3. I am allowed to possess a firearm in Illinois only on my premises, or on someone else's premises with permission, but I am prohibited by 430 ILCS 66/40 from obtaining a concealed carry license, and thus carrying a handgun in a concealed manner for self-defense.

4. I am otherwise qualified to apply for a concealed carry license in Illinois, except for 430 ILCS 66/40.

5. I would carry a loaded and functional concealed handgun in public for self-defense, but I refrain from doing so because I fear arrest, prosecution, fine, and imprisonment as I understand it is unlawful for non-residents from Missouri to carry a concealed handgun in Illinois, or even to apply for a license to do so.

6. I am a member of the Second Amendment Foundation, Illinois State Rifle Association, and Illinois Carry.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this the 2 day of June, 2015.



Paul Heslin

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
SPRINGFIELD DIVISION**

KEVIN W. CULP, MARLOW DAVIS,)
FREDDIE REED-DAVIS,)
DOUGLAS W. ZYLSTRA,)
JOHN S. KOLLER, STEVE STEVENSON,)
PAUL HESLIN, MARLIN MANGELS,)
GUS C. BROWNE II,)
JEANELLE WESTROM,)
SECOND AMENDMENT FOUNDATION,)
INC., ILLINOIS CARRY and)
ILLINOIS STATE RIFLE ASSOCIATION,)

Plaintiffs,)

v.)

Case No. 3:14-CV-3320-SEM-TSH

LISA MADIGAN, in her Official Capacity)
as Attorney General of the State of Illinois;)
HIRAM GRAU, in his Official Capacity as)
Director of the Illinois State Police, and)
JESSICA TRAME, as Bureau Chief of the)
Illinois State Police Firearms Services)
Bureau,)

Defendants.)

DECLARATION OF MARLIN MANGELS

I, Marlin Mangels, am competent to state, and declare the following based on my personal knowledge:

1. I am a resident of the City of Keokuk, State of Iowa. I possess an Iowa driver's license and an Iowa license to carry a concealed weapon, as well as concealed carry licenses from Utah and Arizona. Keokuk is just across the Mississippi River from Hamilton, Illinois. I frequently ride my bicycle up the River Road in Illinois, eats in restaurants in Hamilton, Illinois, travel to see my wife's

family in the Chicago area, and travel I-80 through Illinois to visit friends in Massachusetts.

2. I am allowed to possess a firearm in Illinois only on my premises, or on someone else's premises with permission, but I am prohibited by 430 ILCS 66/40 from obtaining a concealed carry permit, and thus carrying a handgun in a concealed manner for self-defense.

3. I am otherwise qualified to apply for a concealed carry permit in Illinois, except for 430 ILCS 66/40.

4. I would carry a loaded and functional concealed handgun in public for self-defense, but I refrain from doing so because I fear arrest, prosecution, fine, and imprisonment as I understand it is unlawful for non-residents from Iowa to carry a concealed handgun in Illinois, or even to apply for a license to do so.

5. I am a member of the Second Amendment Foundation, Illinois State Rifle Association, and Illinois Carry.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this the 2 day of June, 2015.



Martin Mangels

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
SPRINGFIELD DIVISION**

KEVIN W. CULP, MARLOW DAVIS,)
 FREDDIE REED-DAVIS,)
 DOUGLAS W. ZYLSTRA,)
 JOHN S. KOLLER, STEVE STEVENSON,)
 PAUL HESLIN, MARLIN MANGELS,)
 GUS C. BROWNE II,)
 JEANELLE WESTROM,)
 SECOND AMENDMENT FOUNDATION,)
 INC., ILLINOIS CARRY and)
 ILLINOIS STATE RIFLE ASSOCIATION,)

Plaintiffs,)

v.)

Case No. 3:14-CV-3320-SEM-TSH

LISA MADIGAN, in her Official Capacity)
 as Attorney General of the State of Illinois;)
 HIRAM GRAU, in his Official Capacity as)
 Director of the Illinois State Police, and)
 JESSICA TRAME, as Bureau Chief of the)
 Illinois State Police Firearms Services)
 Bureau,)

Defendants.)

DECLARATION OF TIM BOWYER

I, Tim Bowyer, am competent to state, and declare the following based on my personal knowledge:


1. I am the President of Illinois Carry.
2. Illinois Carry is a non-profit membership organization incorporated under the laws of Illinois with its principal place of business in Shelbyville, Illinois. Illinois Carry has over 10,000 members and supporters in Illinois, and many members outside the State of Illinois. Illinois Carry is dedicated to the preservation of Second Amendment rights. Among Illinois Carry's purposes are educating the public about Illinois laws governing the purchase and transportation of firearms, aiding the public in every way in its power, and supporting and defending the people's right to keep and bear arms, including the right of its members and the public to purchase, possess, and carry firearms.

3. Illinois Carry has individual members and supporters who are adversely impacted by 430 ILCS 66/40.

4. But for the criminal enactments challenged in this complaint, Illinois Carry members who are non-residents of Illinois, who nonetheless work in, travel to, and spend significant amounts of time within Illinois would apply for concealed carry permits in order to carry concealed firearms for their own defense, but they refrain from carrying concealed firearms for fear of arrest, prosecution, fine and incarceration.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this the 2nd day of June, 2015.



Tim Bowyer

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
SPRINGFIELD DIVISION**

KEVIN W. CULP, MARLOW DAVIS,)
 FREDDIE REED-DAVIS,)
 DOUGLAS W. ZYLSTRA,)
 JOHN S. KOLLER, STEVE STEVENSON,)
 PAUL HESLIN, MARLIN MANGELS,)
 GUS C. BROWNE II,)
 JEANELLE WESTROM,)
 SECOND AMENDMENT FOUNDATION,)
 INC., ILLINOIS CARRY and)
 ILLINOIS STATE RIFLE ASSOCIATION,)

Plaintiffs,)

v.)

Case No. 3:14-CV-3320-SEM-TSH

LISA MADIGAN, in her Official Capacity)
 as Attorney General of the State of Illinois;)
 HIRAM GRAU, in his Official Capacity as)
 Director of the Illinois State Police, and)
 JESSICA TRAME, as Bureau Chief of the)
 Illinois State Police Firearms Services)
 Bureau,)

Defendants.)

DECLARATION OF KEVIN W. CULP

I, Kevin W. Culp, am competent to state, and declare the following based on my personal knowledge:

1. I am a resident of the City of Blairsville, State of Pennsylvania.
2. I am an Air Force Colonel stationed on orders at Scott Air Force Base near Belleville, Illinois, but I am a legal resident of Pennsylvania who possesses a Pennsylvania driver's license and Pennsylvania license to carry a concealed weapon, as well as a concealed carry license from Florida.

3. I possess an Illinois FOID card. I am also a Basic Pistol Instructor and a certified Illinois Concealed Carry Licensing Instructor.

4. I am allowed to possess and carry a firearm in Illinois on my premises, or on someone else's premises with permission, but I am prohibited by 430 ILCS 66/40 from obtaining a concealed carry license, and thus carrying a concealed handgun in public for self-defense.

5. I am otherwise qualified to apply for a concealed carry license in Illinois, except for 430 ILCS 66/40.

6. I would carry a loaded and functional concealed handgun in public for self-defense, but I refrain from doing so because I fear arrest, prosecution, fine, and imprisonment as I understand it is unlawful for non-residents from Pennsylvania to carry a concealed handgun in Illinois, and I am unable to even apply for a license to do so.

7. I am a member of the Second Amendment Foundation, Illinois State Rifle Association, and Illinois Carry.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this the 20th day of ~~June~~ ^{July}, 2015.



Kevin W. Culp

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
SPRINGFIELD DIVISION

KEVIN W. CULP, MARLOW DAVIS,)
FREDDIE REED-DAVIS,)
DOUGLAS W. ZYLSTRA,)
JOHN S. KOLLER, STEVE STEVENSON,)
PAUL HESLIN, MARLIN MANGELS,)
GUS C. BROWNE II,)
JEANELLE WESTROM,)
SECOND AMENDMENT FOUNDATION,)
INC., ILLINOIS CARRY and)
ILLINOIS STATE RIFLE ASSOCIATION,)

Plaintiffs,

v.

Case No. 3:14-CV-3320-SEM-TSH

LISA MADIGAN, in her Official Capacity)
as Attorney General of the State of Illinois;)
HIRAM GRAU, in his Official Capacity as)
Director of the Illinois State Police, and)
JESSICA TRAME, as Bureau Chief of the)
Illinois State Police Firearms Services)
Bureau,)

Defendants.

DECLARATION OF MARLOW DAVIS

I, Marlow Davis, am competent to state, and declare the following based on my personal knowledge:

1. I am a resident of the City of Milwaukee, State of Wisconsin. I possess a Wisconsin driver's license and a Wisconsin license to carry a concealed weapon. I am retired and spend approximately half of my time in Chicago.

2. I am allowed to possess a firearm in Illinois only on my premises, or on someone else's premises with permission, but I am prohibited by 430 ILCS 66/40

from obtaining a concealed carry permit, and thus carrying a handgun in a concealed manner for self-defense.

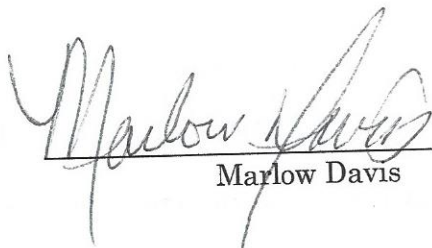
3. I am otherwise qualified to apply for a concealed carry permit in Illinois, except for 430 ILCS 66/40.

4. I would carry a loaded and functional concealed handgun in public for self-defense, but I refrain from doing so because I fear arrest, prosecution, fine, and imprisonment as I understand it is unlawful for non-residents from Wisconsin to carry a concealed handgun in Illinois, or even to apply for a license to do so.

5. I am a member of the Second Amendment Foundation, Illinois State Rifle Association, and Illinois Carry.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this the 8 day of June, 2015.


Marlow Davis

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
SPRINGFIELD DIVISION**

KEVIN W. CULP, MARLOW DAVIS,)
 FREDDIE REED-DAVIS,)
 DOUGLAS W. ZYLSTRA,)
 JOHN S. KOLLER, STEVE STEVENSON,)
 PAUL HESLIN, MARLIN MANGELS,)
 GUS C. BROWNE II,)
 JEANELLE WESTROM,)
 SECOND AMENDMENT FOUNDATION,)
 INC., ILLINOIS CARRY and)
 ILLINOIS STATE RIFLE ASSOCIATION,)

Plaintiffs,

v.

Case No. 3:14-CV-3320-SEM-TSH

LISA MADIGAN, in her Official Capacity)
 as Attorney General of the State of Illinois;)
 HIRAM GRAU, in his Official Capacity as)
 Director of the Illinois State Police, and)
 JESSICA TRAME, as Bureau Chief of the)
 Illinois State Police Firearms Services)
 Bureau,)

Defendants.

DECLARATION OF FREDDIE REED-DAVIS

I, Freddie Reed-Davis, am competent to state, and declare the following
 based on my personal knowledge:

1. I am a resident of the City of Milwaukee, State of Wisconsin. I possess
 a Wisconsin driver's license and a Wisconsin license to carry a concealed weapon. I
 am a nurse working in Chicago.

2. I am allowed to possess a firearm in Illinois only on my premises, or on
 someone else's premises with permission, but I am prohibited by 430 ILCS 66/40

from obtaining a concealed carry permit, and thus carrying a handgun in a concealed manner for self-defense.


3. I am otherwise qualified to apply for a concealed carry permit in Illinois, except for 430 ILCS 66/40.

4. I would carry a loaded and functional concealed handgun in public for self-defense, but I refrain from doing so because I fear arrest, prosecution, fine, and imprisonment as I understand it is unlawful for non-residents from Wisconsin to carry a concealed handgun in Illinois, or even to apply for a license to do so.

5. I am a member of the Second Amendment Foundation, Illinois State Rifle Association, and Illinois Carry.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this the 8 day of June, 2015.


Freddie Reed-Davis

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
SPRINGFIELD DIVISION

KEVIN W. CULP, MARLOW DAVIS,)
FREDDIE REED-DAVIS,)
DOUGLAS W. ZYLSTRA,)
JOHN S. KOLLER, STEVE STEVENSON,)
PAUL HESLIN, MARLIN MANGELS,)
GUS C. BROWNE II,)
JEANELLE WESTROM,)
SECOND AMENDMENT FOUNDATION,)
INC., ILLINOIS CARRY and)
ILLINOIS STATE RIFLE ASSOCIATION,)

Plaintiffs,)

v.)

Case No. 3:14-CV-3320-SEM-TSH

LISA MADIGAN, in her Official Capacity)
as Attorney General of the State of Illinois;)
HIRAM GRAU, in his Official Capacity as)
Director of the Illinois State Police, and)
JESSICA TRAME, as Bureau Chief of the)
Illinois State Police Firearms Services)
Bureau,)

Defendants.)

DECLARATION OF DOUGLAS W. ZYLSTRA

I, Douglas W. Zylstra, am competent to state, and declare the following based on my personal knowledge:

1. I am a resident of the City of Munster, State of Indiana. I possess an Indiana driver's license and an Indiana license to carry a concealed weapon, as well as a concealed carry license and instructor certification from Utah. I am an Illinois State Police certified concealed carry instructor working for a firearm training company in Lansing, Illinois.

2. I am allowed to possess a firearm in Illinois only on my premises, or on someone else's premises with permission, but I am prohibited by 430 ILCS 66/40 from obtaining a concealed carry permit, and thus carrying a handgun in a concealed manner for self-defense.

3. I am otherwise qualified to apply for a concealed carry permit in Illinois, except for 430 ILCS 66/40.

4. I would carry a loaded and functional concealed handgun in public for self-defense, but I refrain from doing so because I fear arrest, prosecution, fine, and imprisonment as I understand it is unlawful for non-residents from Indiana to carry a concealed handgun in Illinois, or even to apply for a license to do so.

5. I am a member of the Second Amendment Foundation, Illinois State Rifle Association, and Illinois Carry.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this the 2nd day of June, 2015.


Douglas W. Zylstra

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
SPRINGFIELD DIVISION**

KEVIN W. CULP, MARLOW DAVIS,)
 FREDDIE REED-DAVIS,)
 DOUGLAS W. ZYLSTRA,)
 JOHN S. KOLLER, STEVE STEVENSON,)
 PAUL HESLIN, MARLIN MANGELS,)
 GUS C. BROWNE II,)
 JEANELLE WESTROM,)
 SECOND AMENDMENT FOUNDATION,)
 INC., ILLINOIS CARRY and)
 ILLINOIS STATE RIFLE ASSOCIATION,)

Plaintiffs,)

v.)

Case No. 3:14-CV-3320-SEM-TSH

LISA MADIGAN, in her Official Capacity)
 as Attorney General of the State of Illinois;)
 HIRAM GRAU, in his Official Capacity as)
 Director of the Illinois State Police, and)
 JESSICA TRAME, as Bureau Chief of the)
 Illinois State Police Firearms Services)
 Bureau,)

Defendants.)

DECLARATION OF JOHN S. KOLLER

I, John S. Koller, am competent to state, and declare the following based on my personal knowledge:

1. I am a resident of the City of Castle Rock, State of Colorado. I possess a Colorado driver's license and a Colorado license to carry a concealed weapon, as well as concealed carry licenses from Utah, Nevada and Arizona. I was born and raised in Chicago, Illinois, and still have family in the Chicago area, whom I visit. I also make periodic business trips to Illinois.

2. I am allowed to possess a firearm in Illinois only on my premises, or on someone else's premises with permission, but I am prohibited by 430 ILCS 66/40 from obtaining a concealed carry permit, and thus carrying a handgun in a concealed manner for self-defense.

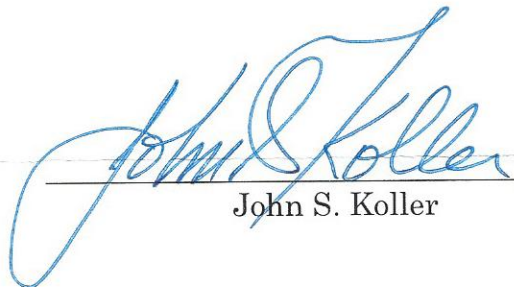
3. I am otherwise qualified to apply for a concealed carry permit in Illinois, except for 430 ILCS 66/40.

4. I would carry a loaded and functional concealed handgun in public for self-defense, but I refrain from doing so because I fear arrest, prosecution, fine, and imprisonment as I understand it is unlawful for non-residents from Colorado to carry a concealed handgun in Illinois, or even to apply for a license to do so.

5. I am a member of the Second Amendment Foundation, Illinois State Rifle Association, and Illinois Carry.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this the 3rd day of June, 2015.



John S. Koller

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
SPRINGFIELD DIVISION

KEVIN W. CULP, MARLOW DAVIS,)
FREDDIE REED-DAVIS,)
DOUGLAS W. ZYLSTRA,)
JOHN S. KOLLER, STEVE STEVENSON,)
PAUL HESLIN, MARLIN MANGELS,)
GUS C. BROWNE II,)
JEANELLE WESTROM,)
SECOND AMENDMENT FOUNDATION,)
INC., ILLINOIS CARRY and)
ILLINOIS STATE RIFLE ASSOCIATION,)

Plaintiffs,)

v.)

Case No. 3:14-CV-3320-SEM-TSH

LISA MADIGAN, in her Official Capacity)
as Attorney General of the State of Illinois;)
HIRAM GRAU, in his Official Capacity as)
Director of the Illinois State Police, and)
JESSICA TRAME, as Bureau Chief of the)
Illinois State Police Firearms Services)
Bureau,)

Defendants.)

DECLARATION OF RICHARD PEARSON

I, Richard Pearson, am competent to state, and declare the following based on my personal knowledge:

1. I am the Executive Director of the Illinois State Rifle Association ("ISRA").
2. ISRA is a non-profit membership organization incorporated under the laws of Illinois with its principal place of business in Chatsworth, Illinois. ISRA has over 26,600 members and supporters in Illinois, and many members outside the State of Illinois. The purposes of ISRA include securing the Constitutional right to privately own and possess firearms within Illinois, through education, outreach, and litigation. ISRA has bought and is pursuing this action on behalf of itself and its members.

3. ISRA has individual members and supporters who are adversely impacted by 430 ILCS 66/40.

4. But for the criminal enactments challenged in this complaint, ISRA members who are non-residents of Illinois, who nonetheless work in, travel to, and spend significant amounts of time within Illinois would apply for concealed carry licenses in order to carry concealed firearms for their own defense, but they refrain from carrying concealed firearms for fear of arrest, prosecution, fine and incarceration.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this the 2 day of June, 2015.


Richard Pearson

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

ELLA M. SAMUEL vs. JESSICA TRAME

Case No. 15-780-NJR-SCW

DEPOSITION OF JESSICA TRAME

JANUARY 7, 2016



Morris Reporting Company

Certified Shorthand Reporters

112 Mark Trail Drive
Glen Carbon, IL 62034

Tel 618-288-5520
Fax 618-288-5522

Y909

THE UNITED STATES OF AMERICA
VS.

JOHN DOE

JOHN DOE

JOHN DOE

JOHN DOE



JOHN DOE

JOHN DOE

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JOHN DOE

I N D E X

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WITNESSES

For Plaintiff:

JESSICA TRAME

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

ELLA M. SAMUEL,

Plaintiff,

vs.

JESSICA TRAME,

Defendant.

No. 15-780-NJR-SCW

DEPOSITION OF JESSICA TRAME, produced, sworn
and examined on behalf of the Plaintiff on January 7,
2016, at Illinois State Police Headquarters, 801 South
7th Street, Springfield, Illinois, before RUTH S.
MORRIS, an Illinois Certified Shorthand Reporter.

1 APPEARANCES:

2
3 FOR THE PLAINTIFF:

4 MAAG LAW FIRM, LLC

5 22 West Lorena Avenue

6 Wood River, IL 62095

7 By: Thomas G. Maag

8 (618) 216-5291

9
10 FOR THE DEFENDANT:

11 ILLINOIS ATTORNEY GENERAL'S OFFICE

12 500 South Second Street

13 Springfield, IL 62706

14 By: Bilal A. Aziz

15 (217) 782-9056

16 baziz@atg.state.il.us

17 and

18 ILLINOIS STATE POLICE

19 800 South 7th Street, Suite 1000-S

20 Springfield, IL 62704

21 By: Jennifer Grady-Paswater

22 (217) 557-0678

23

24

25

IT IS HEREBY STIPULATED AND AGREED by and between Counsel for the Plaintiff and Counsel for the Defendant that this deposition may be taken in shorthand by RUTH S. MORRIS, an Illinois Certified Shorthand Reporter, and afterwards transcribed into typewriting, and the signature of the witness is waived.

o-O-o

JESSICA TRAME,
of lawful age, being produced, sworn and examined on behalf of the Plaintiff, deposes and says:

DIRECT EXAMINATION

QUESTIONS BY MR. MAAG:

Q Can you state your name for the record, please?

A Jessica Trame.

Q And are you employed?

A I am.

Q And how are you employed?

A I'm with the Illinois State Police, Firearms Services Bureau.

Q And what is your job title or job duties at the Firearms Services Bureau?

1 A I'm the bureau chief of the Firearms
2 Services Bureau.

3 Q Okay. And in plain English, what do you
4 do?

5 A I oversee the FOID program, the Firearm
6 Owner's Identification Program, the Firearms
7 Transfer Inquiry Program, the Concealed Carry
8 Licensing Program.

9 Q And very generally, what is the Firearm
10 Owner's Identification Program and what is the
11 Concealed Carry Program, just very generally?

12 A The Firearm Owner's Identification Program
13 administers the FOID card, the FOID application
14 process for someone to possess weapons in Illinois
15 and Concealed Carry Program, the licensing program
16 for the carrying of concealed weapons.

17 Q Thank you. And how long have you been in
18 this position?

19 A Since February, 2012.

20 Q And what did you do prior to being in this
21 position?

22 A I was assigned to the Director's Office.

23 Q The Director of the State Police?

24 A Yes.

25 Q And that's the Illinois State Police?

1 A Correct.

2 Q And how long were you assigned to the
3 Director of the Illinois State Police?

4 A I was in the Director's Office from
5 sometime in 1995, until I went to the Firearms
6 Services Bureau.

7 Q Thank you. And what did you do before
8 that?

9 A I was in college.

10 Q Where did you go to college?

11 A Well, I take that back. Sorry. From 1993
12 to 1995, I was also with the State Police and I was
13 in the Research and Development Bureau.

14 Q What is the Research and Development
15 Bureau?

16 A They no longer exist.

17 Q What were they?

18 A We did a variety of different things, but
19 it was a bureau that handled the Departments Awards
20 Program, the Departments Suggestions Program, we had
21 a granting unit that wrote grants and administered
22 grants for the department and some local police
23 departments.

24 We had the policy section for the
25 department, we did departmental surveys regarding --

1 and evaluations regarding equipment that officers
2 would be using out in the field. It was a variety
3 of different activities.

4 Q Can you tell me very briefly about your
5 post high school education background?

6 A I have a Bachelor's of Administration from
7 St. Mary's College in Notre Dame, Indiana.

8 Q Are you a sworn officer or merely a
9 civilian of the State Police?

10 A I'm a civilian employee.

11 Q Have you ever been a sworn officer?

12 A No, I have not.

13 Q You understand we're here today for your
14 deposition in the case of Samuel versus Trame in
15 your official capacity as chief of the Firearms
16 Services Bureau?

17 A Yes.

18 Q And is it accurate that you have signed an
19 affidavit for purposes of that case?

20 A Yes.

21 Q And do you have a copy of that affidavit
22 with you?

23 A No, I do not.

24 MR. MAAG: If you could go ahead and mark
25 this as Plaintiff's Exhibit A, please.

1 [At this time, a document was marked
2 for identification by the reporter as
3 Plaintiff's Exhibit A.]

4 Q (By Mr. Maag): Take a moment to look at
5 that, and when you're ready let me know.

6 A (Witness complies.) All right.

7 Q Okay. Do you recognize the document
8 that's been handed you and marked as Plaintiff's
9 Exhibit A?

10 A I do.

11 Q What is that document generally?

12 A Generally this is an affidavit regarding
13 the overall processing of Concealed Carry License
14 applications and what we go through in the bureau to
15 do so.

16 Q And is that your signature on the last
17 page of the document?

18 A Yes, it is.

19 Q And I think we've already addressed in
20 your initial background Paragraphs 1 and 2, and so
21 I'm going to skip over those.

22 A Okay.

23 Q Paragraph 3, if you could just read that
24 to yourself and as soon as you read that, I'll start
25 with my questions on it.

1 A (Witness complies.) Okay.

2 Q In Paragraph 3, you appear to be making a
3 distinction between residents and non-residents as
4 far as needing a FOID card to get a Concealed Carry
5 license, is that accurate?

6 A Yes.

7 Q As you have used the term in this
8 Affidavit, what do you mean by a resident and what
9 do you mean by a non-resident?

10 A Well, both of those are -- a resident is
11 defined within the rules as an individual who is
12 eligible for an Illinois driver's license or an
13 Illinois identification card.

14 Q Okay. Ipso facto then, a non-resident
15 would be a person who is not eligible for the
16 Illinois driver's license or Illinois identification
17 card?

18 A Correct.

19 Q From what you've just told me, the only
20 factor that goes into whether a person is a resident
21 or not is the eligibility for a driver's license in
22 Illinois or an Illinois State identification card,
23 nothing else is relevant for purposes of determining
24 whether somebody is a resident or not as you have
25 used the terms in this affidavit?

1 A That's correct.

2 Q Do you have any knowledge whether or not a
3 person that has a driver's license issued by a State
4 other than Illinois is eligible for an Illinois
5 State identification card?

6 A It is my understanding that they would
7 have to surrender that card from the other State.

8 Q And what is the basis of that
9 understanding?

10 A That is what has been explained to me by
11 our Secretary of State's Office.

12 Q Who at the Secretary of State's Office, if
13 you remember?

14 A I don't recall specifically.

15 Q Do you remember when that was explained to
16 you?

17 A Several years ago.

18 Q And Paragraph 4, will you go ahead and
19 read Paragraph 4? It states, "In processing CCL
20 applications, the Bureau performs an extensive
21 background check on each applicant as required by
22 the FOID Card Act and the Firearm Concealed Carry
23 Act."

24 A Yes.

25 Q Can you describe what that background

1 check is?

2 A The background check includes a validity
3 check of the individual using the driver's license
4 or identification card that is valid and their
5 address. And we also look for -- for Illinois
6 residents, they are photographed, and signature.
7 We then --

8 Q Okay. Let me stop you there and then you
9 can finish. What do you mean a validity check to
10 check if it's valid?

11 A They must -- the driver's license or
12 identification card must be valid, be a valid card.

13 Q Do you mean --

14 A It cannot be expired, surrendered to
15 another State, revoked.

16 Q Okay.

17 A It must be a valid Illinois driver's
18 license or Illinois identification card. And the
19 same if it's a non-resident, an Out-of-State
20 resident, and they're able to apply, it would need
21 to be valid in their State.

22 Q Please continue.

23 A I'm sorry, I'm not sure what the question
24 is now.

25 Q I stopped you midway when you were

1 explaining about the extensive background check on
2 each applicant.

3 A Okay. And then --

4 Q After the validity check --

5 A So, the rest of the background check would
6 include various criminal history databases, both
7 State and Federal; to include some but maybe not
8 all, Triple I, which is the Federal FBI criminal
9 history system; NCIC, the National Crime Information
10 Center; The Illinois Criminal History Reporting
11 Information; the Illinois Hot Files; and the NICS
12 which is the National Instant Criminal Background
13 Check System to make a few.

14 Q Are there additional checks that are
15 performed?

16 A If it would be like an alien, non U.S.
17 resident, we would check against immigration.

18 Q Okay.

19 A So, there would be a few other checks
20 depending on the application itself.

21 Q For purposes of this case and this
22 deposition, let's focus on somebody that's at least
23 a U.S. citizen.

24 A Okay.

25 Q Other people may have other concerns, but

1 that's outside the scope of what I'm looking at.

2 A Uh-huh.

3 Q As far as a U.S. citizen is concerned,
4 other than the Triple I, NCIC, and the Illinois
5 State database, the Illinois Hot Files, and the
6 NICS, is there any other --

7 A For a non-resident, we would also check
8 against NLETS, the National Law Enforcement
9 Telecommunications System, and that would produce
10 the response on their driver's license or
11 identification card as well as we would be looking
12 at whether they have some type of a Concealed Carry
13 or equivalent permit in their State.

14 Q And how would you check to determine
15 whether they had a Concealed Carry or equivalent
16 from another State?

17 A There are States that attach that to a
18 record in response to an NLETS message.

19 Q Okay. Any other databases that would be
20 routinely checked for a U.S. citizen?

21 A Not that I can think of off the top of my
22 head, no.

23 Q That's fine. Would it matter for purposes
24 of performing a background check whether or not --
25 or strike that and let me rephrase it.

1 Why would it matter, if indeed it would
2 matter at all, whether or not the person in question
3 has an Illinois driver's license or Illinois State
4 I.D. card or not for purposes of a background check?

5 A Well, for the purposes of the background
6 check, we consume information from the Secretary of
7 State, so we match the photograph or the identity,
8 we match the signature, we match the address, and
9 that information is used directly on the license.

10 Q For what purpose?

11 A To insure the applicant is who they say
12 they are.

13 Q Are you aware that the Illinois driver's
14 license does not comply with the Federal Real ID
15 Act?

16 A No.

17 Q If you had known that previously, would
18 that change anything you've said so far?

19 A I don't know. Not knowing what the Real
20 ID Act says and how we're not complying, I don't
21 believe I can answer that question.

22 Q Is that something you would like to know
23 for purposes of processing FOID cards and Concealed
24 Carry licenses?

25 MR. AZIZ: Objection, foundation. Go

1 ahead.

2 THE WITNESS: Any information is helpful.

3 Q (By Mr. Maag): In Paragraph 5, you make
4 reference to, "The first phase of the process is a
5 quality check of the application to make sure it's
6 complete." I'm paraphrasing. What is done to make
7 sure that specifically a Concealed Carry application
8 is complete?

9 A Well, it varies a little bit between
10 whether it was an application completed on the web
11 or the alternate paper application.

12 But, the name, the spelling of the name is
13 checked against the Secretary of State file; the
14 address, including spelling is checked against the
15 Secretary of State file; other personal identifiers,
16 generally speaking, eye color, hair color, those
17 types of things are checked; certain applications
18 have certain requirements.

19 So, you know, did they attach the training
20 certificate, did all the requirements -- are they
21 there, that's the quality. You know, is everything
22 in the application that is supposed to be completed.

23 So, did they answer all the questions, the
24 criminal history questions; is it fully signed; if
25 there was -- an affidavit was required, was the

1 affidavit attached.

2 Q You made reference to a web based
3 application and a paper application.

4 A Alternative paper application.

5 Q Can you tell me about the alternative
6 paper application?

7 A Yes. An individual would call in to the
8 call center and they would begin their application
9 over the telephone.

10 So, the call taker would ask them a series
11 of questions, mostly their personal identification
12 information, their full name, date of birth,
13 driver's license, address, those types of things and
14 take payment.

15 An application would then be printed with
16 those items already pre-populated, pre-employment.
17 Those items would be pre-populated on the form.

18 The applicant would then attach a
19 photograph, they would answer the criminal history
20 questions, and they would make the signatures that
21 are required, and return that.

22 Q So, it's not like somebody could pick up a
23 blank application, fill it out, and mail it in?

24 A No.

25 Q All right. Substantively, is there any

1 difference between the web based application and the
2 paper application?

3 A No. It's -- the same requirements are
4 there, the same information is asked.

5 Q What is the purpose of the paper
6 application as opposed to the web application? Why
7 have the two?

8 A It was in order for people who may not
9 have access to a computer themselves and they could
10 call in.

11 The purpose for the web base was to
12 increase efficiency. The alternative method of
13 calling in is it looks like a web based application
14 on our side, in your system because we pre-entered
15 much of the information.

16 Q On the web based version, specifically
17 addressing my client, Miss Samuel, there is no
18 mechanism apparently to populate a Montana address
19 into the web based application. Is that accurate to
20 your knowledge?

21 A I believe that is accurate to my
22 knowledge, yes.

23 Q If Miss Samuel had called on the telephone
24 to do a paper application and had provided a Montana
25 address while trying to do the paper application,

1 can you tell me what would have or what should have
2 happened?

3 A I don't believe that would be able to
4 occur either, that the Montana address would be able
5 to be entered.

6 Q So, for either a web based application or
7 the alternative paper application that you've
8 described, there would be no mechanism to populate a
9 Montana address into the application?

10 A Correct.

11 Q Therefore, there would be no mechanism for
12 a Montana resident to fill out the application and
13 send it in for processing?

14 A That's correct.

15 Q Okay. And it's my understanding that
16 there are four States other than Illinois that the
17 Firearms Services Bureau will accept as an
18 application from a resident of, is that accurate?

19 A Yes.

20 Q For any of the other forty-four States,
21 would the answer be the same as Montana as far as
22 whether or not the Firearms Services Bureau would
23 even accept or process an application?

24 A Yes, it would be the same answer.

25 Q Okay. In Paragraph 6 of your affidavit,

1 you made reference to the background check being
2 performed after the verification of identity. Is
3 that consistent with what you have already told me
4 about the background check here today?

5 A Yes.

6 Q And a summation of Paragraph 7 would
7 simply be that once an application is submitted and
8 initialing process, Illinois law enforcement
9 agencies are notified and can object if they want
10 to. And I'm paraphrasing, of course.

11 A Paraphrasing, yes.

12 Q In Paragraph 10, you make reference to the
13 identity being verified through the Illinois
14 Secretary of State's license system, either be it
15 driver's license or State I.D.?

16 A Yes.

17 Q And I think we've already discussed that,
18 so I'll skip down to Paragraph 10 --

19 MR. AZIZ: Just to clarify, Counsel --

20 MR. MAAG: Sure.

21 MR. AZIZ: -- I think you were referring
22 to Paragraph 9?

23 MR. MAAG: Yes.

24 MR. AZIZ: I think you said 10, just to
25 make the record clear.

1 MR. MAAG: Okay. I'm skipping down to
2 Paragraph 10, skipping over --

3 MR. AZIZ: Right. No, when you -- when
4 you had mentioned the Secretary of State, I
5 think you had said, "in Paragraph 10," so I
6 just wanted to make it clear --

7 MR. MAAG: Okay, fair enough.

8 Q (By Mr. Maag): What do you mean by direct
9 access in Paragraph 10?

10 A We don't have -- it's not like I can just
11 pull up, you know, Montana's drivers database. We
12 do have direct, you know, access into the Secretary
13 of State's database, so we have to rely on another
14 agency -- you know, we have to rely on the NLETS
15 system --

16 Q Okay.

17 A -- for an Out-of-State driver's license
18 return.

19 Q Okay. And Montana specifically, how would
20 you verify a Montana driver's license?

21 A Through NLETS.

22 Q Okay. And if you ran a Montana driver's
23 license through NLETS, what information should be
24 provided, assuming everything is functioning
25 properly?

1 A It would be -- well, through -- and I want
2 to make it clear through our system because, you
3 know, a trooper out in the field may run something
4 differently.

5 So, through our system, we would see the
6 person's name, the status of that license, usually
7 the date of issuance, the date of expiration,
8 address.

9 And some States -- and there may be a
10 little bit more information if they have a certain
11 type of driver's license like a CDL versus just like
12 a regular driver's license.

13 And some States make note of whether or
14 not they have a Concealed Carry license or similar
15 permit.

16 Q Okay. And I've asked you previously about
17 Illinois and the Real ID Act. I suspect I know what
18 the answer is from your previous testimony, but I'm
19 going to ask it anyway. Do you know whether or not
20 a Montana driver's license is Real ID Act compliant?

21 A I do not.

22 Q In your affidavit, you make reference to
23 various States that do not make driver's license
24 images currently available on NLETS. I do not see
25 Montana listed in that list. So, can I take that to

1 mean that Montana does, in fact, make driver's
2 license photographs available on NLETS?

3 A I would have to verify that again. But,
4 this information was taken off of the NLETS website
5 at the time.

6 Q So, this information in Paragraph 10 was
7 based on what you read on the NLETS system?

8 A Well, I confirmed it's with our IT staff,
9 but I'm not an expert on NLETS and what it produces.
10 We do not -- I don't log into an NLETS system, you
11 know. So, we provided Out-of-State driver's license
12 and we get a return back.

13 Q So, the contents of Paragraph 10 is based
14 either on what somebody told you or what you read on
15 the NLETS website?

16 A Confirmed on the NLETS website.

17 Q Suffice it to say, as you sit here today
18 and when you signed this affidavit on 30 November,
19 2015, you did not have any information that
20 indicated that Montana did not make images available
21 off its driver's licensees on NLETS?

22 A Correct.

23 Q Correct?

24 A Correct.

25 Q Paragraph 11, if you could read that and

1 let me know when you're ready.

2 A (Witness complies.) I'm ready.

3 Q Okay. You appear to be stating, and
4 correct me if I misstate this, that for Illinois
5 residents, you can locate criminal history through
6 Illinois's Criminal History Recorded System --
7 Record Inquiry System, a system maintained by the
8 Illinois State Police from the Computerized Hot
9 Files and from Federal systems?

10 A Correct.

11 Q How is that different than a Missouri
12 resident, a Montana resident, or a resident from any
13 of the other States?

14 A I'm not sure what you're inferring there.
15 But, we run the same check on everyone and using the
16 same system for an Illinois resident that has
17 Illinois criminal history in their past. We have
18 access to much more detailed information and final
19 disposition data.

20 Running someone's criminal history from
21 another State, most States provide just a summary,
22 arrest, maybe not even include the severity, was it
23 a misdemeanor, was it a felony, what that final
24 disposition was.

25 Many States only provide what they call a

1 summary aspect of the background from another State.

2 Q Okay. Taking all of that as true, a
3 current Illinois resident that was born in Montana,
4 lived for forty years in Montana, and then moved to
5 Springfield, got an Illinois driver's license and
6 applied for a FOID card and an Illinois Concealed
7 Carry license, how is your background check
8 ultimately going to be any different than a person
9 who has never left the State of Montana?

10 A We would have the -- we would struggle
11 with it. If that person had a criminal history in
12 Montana and we were unable to get the records, it
13 would delay the process for sure.

14 Q Okay. Why would the former Montana
15 resident who moved to Illinois six months ago
16 qualify for a Concealed Carry license but the
17 Montana resident who had never left the State of
18 Montana not qualify?

19 A Because we follow the statute and the
20 rules.

21 Q What is the practical reason that that
22 rule exists like that?

23 A I did not write the rules. The rules were
24 meant for the applicants to be treated the same,
25 that an Illinois resident and a resident from

1 another State to be treated the same. That's my
2 understanding.

3 Q Is the current Montana resident and the
4 person who left Montana six months ago being treated
5 the same under my hypothetical?

6 A I think it would depend on the case.

7 Q Assume two identical -- two identical
8 twins who have lived together their whole life up
9 until six months ago with identical criminal
10 histories, whatever they are, with identical mental
11 health histories, whatever they are. Why are they
12 treated differently?

13 A Sir, I don't know why. We follow the laws
14 and the rules that have been given to us.

15 Q Does that strike you as a somewhat
16 arbitrary and capricious rule?

17 MR. AZIZ: Objection, argumentative.

18 Q (By Mr. Maag): You can answer.

19 A Not necessarily.

20 Q Why not?

21 A Well, we haven't talked about mental
22 health. And, you know, to take every application
23 and try to determine what that background was, you
24 know, I -- I -- it's -- you know, in my opinion,
25 it's not my -- my job to put my personal thoughts

1 into what I do. I follow what is put forth in front
2 of me.

3 Q You're just following orders?

4 A Well, if you want to simplify it, yes.

5 Q Attached to your affidavit and referenced
6 in either your Summary Judgment Motion or your
7 Response to my Summary Judgment motion, I forget
8 which, was referenced to a lady from Pascagoula,
9 Mississippi, that was apparently arrested in 2005,
10 for looting. Do you have a recollection of that?

11 A General recollection.

12 Q Okay. And there was some additional
13 documentation that went along with that that
14 indicated that at least somebody in your office,
15 whether or not it was you personally, contacted the
16 Jackson County, Mississippi, Circuit Clerk to try to
17 obtain additional information.

18 A Yes.

19 Q Do you recall that?

20 A Yes.

21 Q How much does an Illinois resident license
22 cost?

23 A For --

24 Q For a Concealed Carry license for a
25 resident.

1 A I'm sorry. I wasn't sure whether -- if
2 you meant driver's license. One hundred and fifty
3 dollars.

4 Q How much is a non-resident supposed to
5 pay?

6 A Three hundred dollars. I have to second
7 guess myself there, but three hundred dollars.

8 Q Okay. I believe those numbers are
9 correct, and I'll assume they are for purposes of
10 our discussion. Why the difference between the two
11 dollar amounts?

12 A I was not involved in those discussions.
13 I don't know why they, you know, decided on those
14 two amounts of money.

15 Q Okay. Really I'm not really asking why
16 the particular amounts as much as why the difference
17 between the two.

18 A I was not involved in any of those
19 discussions about --

20 Q If you don't know, that's fine.

21 A I don't know.

22 Q "I don't know" is a perfectly acceptable
23 answer if you don't know.

24 A I don't know.

25 Q Contrary to popular belief, this is not a

1 test.

2 Suffice it to say, it costs double for a
3 non Illinois applicant to apply for a Concealed
4 Carry license than it does for an Illinois resident,
5 correct?

6 A Correct.

7 Q And it appears that there was some issue
8 with this Pascagoula, Mississippi, lady, that the
9 Jackson County, Mississippi, Clerk wanted ten
10 dollars or something for her records.

11 A Right.

12 Q Wouldn't you agree with me that there's a
13 hundred and fifty dollars in extra money potentially
14 available to the State to pay that ten dollar fee?

15 A I would agree that there is additional
16 money as part of that application process, yes.

17 Q Okay. And of course, if this lady from
18 Pascagoula -- I don't know if she moved to Illinois
19 or not for purposes of whatever she was applying for
20 here -- but, assuming that she had moved to Illinois
21 and was applying as an Illinois resident for
22 whatever she was applying for, this identical issue
23 of having difficulty accessing Jackson County,
24 Mississippi, records would be identical whether or
25 not she had an Illinois driver's license, Illinois

1 State I.D., or a Mississippi driver's license, or an
2 Alabama driver's license, et^cetera?

3 A Yes.

4 Q Do you happen to know what the name of the
5 lady is?

6 A No.

7 Q Who would know?

8 A It's in our records someplace.

9 Q Did anybody just try picking up the phone
10 and calling the Jackson County Clerk of the Court
11 and just asking informally what the disposition was
12 on this?

13 MR. AZIZ: Objection, relevance.

14 Q (By Mr. Maag): You can answer.

15 A We try that every day. That's always our
16 first methodology, but most of them have rules and
17 regulations that they just can't tell us.

18 Q I don't find that problem, but not to
19 argue with you. Ultimately, were you able to
20 discern the outcome of this looting charge from
21 2005?

22 A I do not know.

23 Q In your affidavit, you make reference to
24 having difficulty with -- either you or your office,
25 not necessarily you personally -- Los Angeles

1 County, California, Milwaukee County, Wisconsin, and
2 Jackson County, Mississippi, as they charge for
3 records. Nowhere in your record do I see any
4 indication of you or your department or bureau
5 having any difficulty with Montana records.

6 A When this was written, these happened to
7 be the three issues that we had that week.

8 Q Okay. Can you articulate a specific
9 instance you or your department or your bureau has
10 had with records from Montana not being able to
11 access them?

12 A I cannot specifically.

13 Q If you could read Paragraph 13, and let me
14 know when you're ready.

15 A (Witness complies.) Okay, I'm ready.

16 Q Okay. As I understand it what you're
17 explaining here is periodically your bureau rechecks
18 the persons with Concealed Carry licenses to make
19 sure that they're still eligible?

20 A Correct.

21 Q Is that necessarily any different from the
22 initial background check performed during the
23 application?

24 A They're the same -- same systems are used
25 for that.

1 Q Same basic check?

2 A Yes.

3 Q So, any information that would be
4 available for the initial check presumably would be
5 available for the subsequent check, ninety days or
6 thirty days or whatever the interval is?

7 A Right, we would be looking for any
8 changes.

9 Q Right.

10 A Any additions.

11 Q If you could read Paragraph 14.

12 A (Witness complies.) Okay, I'm ready.

13 Q As I interpret Paragraph 14 and please,
14 correct me if I'm wrong, some of the information in
15 some of the databases that are checked may not be a
16 hundred percent accurate is the crux of Paragraph
17 14?

18 A Correct.

19 Q And that would be true whether the person
20 is a resident of Montana, Alaska, or Illinois,
21 correct?

22 A Correct.

23 Q Is it necessary to submit fingerprints to
24 get an Illinois Concealed Carry license?

25 A It's optional.

1 Q So, it would not be necessary? I'll
2 rephrase it.

3 It is possible to get an Illinois
4 Concealed Carry license without the submission of
5 fingerprints?

6 A Yes.

7 Q Okay. And is it possible to get an
8 Illinois FOID card without the submission of
9 fingerprints?

10 A Yes.

11 Q In Paragraph 15, you're making reference
12 to a National Fingerprint File?

13 A Correct.

14 Q Since it is not necessary to submit
15 fingerprints to get either of the two licenses that
16 your bureau issues, why is it relevant or helpful or
17 even a consideration whether or not a given State
18 other than Illinois participates in a National
19 Fingerprint File?

20 A Because the States that do participate in
21 that provide complete and full criminal history
22 reports to those Federal databases.

23 Q So, it's for purposes other than the
24 fingerprints?

25 A Correct.

1 Q Okay. Does Illinois participate in the
2 National Fingerprint File?

3 A No, we do not.

4 Q Why not, if you know?

5 A I don't know.

6 Q Yet, the State of Illinois has access to
7 the National Fingerprint File?

8 A We do through NCIC. It's -- I believe
9 it's one of their files, so, yes.

10 Q Okay. If an applicant being a resident or
11 a non-resident were to actually submit fingerprints
12 with his or her concealed weapons license in
13 Illinois, can you tell me what is done with those
14 fingerprints?

15 A They would be submitted to first our
16 Bureau of Identification and then it would be sent
17 to the FBI for a fingerprint response.

18 Q All right. And I recognize each
19 individual case is different, but typically how long
20 does a response take?

21 A Assuming the prints are legible and there
22 are no problems with that, usually it's a matter of
23 days.

24 Q Does the FBI charge for that service?

25 A Yes, they do.

1 Q And what do they charge for that service,
2 if you know?

3 A I do not know the exact amount.

4 Q Twenty, twenty-five dollars or do you
5 know?

6 A I believe approximately in the range of --
7 it's a combination of the State processing and the
8 Federal, and it's between thirty and thirty-five
9 dollars, I believe, the last time I checked.

10 Q And that's a combination of the State and
11 the FBI?

12 A Correct.

13 Q All right. Do the fingerprints come back
14 to you or are they retained by the FBI or do you
15 know?

16 A No. An applicant who chooses to provide
17 fingerprints -- it's all done electronically. So,
18 they have to go to a recognized vendor by the
19 Illinois State Police, and they are taken
20 electronically and we just get a response, an
21 electronic response.

22 Q Okay. So, it's not the old FBI's Form 58
23 or whatever they are?

24 A No.

25 Q Now, anything that we've discussed thus

1 far, Paragraphs 1 through 15 -- and I recognize we
2 skipped over some of them because I think we talked
3 about them separate and apart -- are any of the
4 information that we already discussed used as a
5 reason why Illinois and Montana specifically are not
6 substantially similar for purposes of Illinois
7 issuing Concealed Carry license -- weapons license
8 for Montana residents?

9 A I'm trying to remember the Montana
10 survey --

11 Q I have it available here for you if that
12 would help.

13 A That would help.

14 Q That's all of them (indicating), if you
15 want to take a look.

16 A Okay. (Witness complies.)

17 MR. AZIZ: Would you like me to direct
18 her?

19 MR. MAAG: Please.

20 MR. AZIZ: If you look at the bottom
21 left-hand column, do you see the numbers.

22 THE WITNESS: Uh-huh.

23 MR. AZIZ: Thirty-one --

24 THE WITNESS: I just got there. No.

25 Q (By Mr. Maag): The answer to my question

1 is "No"?

2 A I believe. I believe I answered the right
3 question.

4 Q Okay. In Paragraph 16, you start talking
5 about mental health information.

6 A Yes.

7 Q And specifically, you make reference to
8 the fact that Illinois prohibits persons who have
9 been adjudicated as having certain mental problems
10 from preventing -- from possessing firearms and
11 getting the requisite licenses, and it also makes
12 reference to the fact that persons who have
13 voluntarily been a resident of a mental health
14 facility in the past have varying degrees of
15 disqualifications for Illinois firearms license such
16 as Concealed Carry license?

17 A Yes.

18 Q Is that the reason that Illinois has
19 determined Montana is not substantially similar for
20 purposes of issuing Concealed Carry license to
21 Montana residents?

22 A Yes.

23 Q Is there anything else that Illinois has
24 determined is not sufficiently similar?

25 A No.

1 Q My client is Samuel -- I think she just
2 got promoted, but I'll use the term "airman"
3 generically -- an airman stationed at Scott Air
4 Force Base in St. Clair County, Illinois. And I
5 apologize, Ella, for getting your rank wrong, but be
6 that as it may, are you aware of whether or not
7 Scott Air Force Base specifically has any mental
8 health treatment facilities on base?

9 A I'm not aware of that specifically.

10 Q Okay. Are you aware of whether or not
11 there are any treatment facilities, hospitals in St.
12 Clair County more generically that treat mental
13 health conditions, i.e., something that if my client
14 were to have a breakdown, that she could be taken to
15 either voluntarily or involuntarily?

16 A I don't know specifically. I would have
17 to verify that.

18 Q Okay. Do you have a belief and you're
19 just not certain of it, or you have no idea?

20 A I believe that there would be a facility
21 in that vicinity that would treat mental health, but
22 I --

23 Q And I will represent to you that upon my
24 investigation, there is a facility in St. Clair
25 County to do that, and there is not one on post, and

1 that what I have learned is any Air Force personnel
2 that have such issues would be taken to the civilian
3 facility in, I think, Belleville, Illinois.

4 You make reference in your affidavit to
5 the Illinois DHS, I believe. What is the DHS?

6 A Illinois Department of Human Services.

7 Q They are obliged to report to the Illinois
8 State Police, and I guess ultimately to your bureau,
9 both voluntarily and involuntary commitments in
10 Illinois, correct?

11 A Correct, yes.

12 Q Is it your understanding that the facility
13 in Belleville, Illinois, St. Clair County, would be
14 one of those that would be required to report to the
15 DHS and ultimately to the Illinois State Police?

16 A Yes.

17 Q Would any of the other forty-nine
18 States -- strike that.

19 Would any of the hospital or medical
20 treatment -- mental health treatment facilities in
21 any of the other forty-nine States have any
22 obligation that you're aware of to report to any
23 Illinois agency, any voluntary or involuntary mental
24 health treatment or commitment?

25 A No.

1 Q So, if an Illinois resident wanted to
2 avoid hypothetically being reported to the DHS and
3 ultimately your bureau because they were having a
4 really bad time in their life, they could literally
5 go across the Mississippi River to check into a
6 mental health facility in downtown St. Louis right
7 across the river from St. Clair County?

8 A That would be possible.

9 Q And neither the DHS nor ultimately your
10 bureau would ever, with all things being equal,
11 learn about that?

12 A Correct.

13 Q And that is true whether the person is a
14 resident of Illinois with an Illinois driver's
15 license or not, correct?

16 A That would be correct.

17 Q The fact a person born or raised in
18 Illinois that went off to college in another State,
19 that sought mental health treatment in whatever
20 State they went off to college with, ultimately
21 would not be reportable to the DHS or your bureau,
22 correct?

23 A That's correct.

24 Q And so, if that person came back to the
25 State of Illinois, you would be unable to determine

1 whether or not that person had ever been voluntarily
2 or involuntarily committed -- I'll rephrase that,
3 been voluntarily committed?

4 A Correct.

5 Q In truth and in fact, many if not most,
6 involuntary mental health adjudications are reported
7 to the various Federal databases, correct?

8 A They're supposed to be.

9 Q Well, for instance, I believe in 2012,
10 only three of the hundred and two Counties in
11 Illinois reported those to the State of Illinois,
12 correct?

13 A Correct.

14 Q Okay. Has that number improved since
15 2012?

16 A Yes. I believe seventy-two have now --
17 seventy-two of the hundred and two Counties have
18 reported. However, all have indicated they are
19 compliant, meaning they either don't have any cases
20 in their County or they didn't meet the requirements
21 for reporting. That's what we've been told.

22 Q What is the requirement for reporting per
23 your understanding?

24 A Any adjudicated, you know, mental --
25 mentally disabled person, so that -- you know, to

1 break that down, that would include a variety of
2 both criminal and civil type cases. Not guilty by
3 reason of insanity, you know, for example on the
4 criminal side would be --

5 Q An obvious example there?

6 A Obvious example. On the civil side it
7 could be just for an example someone getting into a
8 car accident and losing their, you know, mental
9 capacity in a coma. And it could be that it's for a
10 short period of time and that then is overturned, a
11 guardianship would be included.

12 Q So, hypothetically, a person that's not --
13 that otherwise is not a danger to themselves or
14 others and could otherwise take care of themselves
15 and provide for their basic needs, but for instance,
16 could no longer manage their own financial
17 affairs --

18 A Correct.

19 Q -- would be adjudicated as a mental
20 defective and lose their firearm rights?

21 A That's my understanding.

22 Q I won't ask you if that seems fair.

23 A Thank you.

24 Q Suffice it to say in truth and in fact,
25 with the highly mobile society that is the United

1 States today, it really doesn't make any difference
2 whether or not a person has an Illinois driver's
3 license right now or not, whether they live in any
4 of the hundred and something Counties of Illinois,
5 or they live in California, Montana, or Texas, as
6 far as running a complete background check on
7 that -- individual mental health background check on
8 that individual, does it?

9 MR. AZIZ: Objection, argumentative.

10 Q (By Mr. Maag): You can answer.

11 A Can you repeat the question?

12 MR. MAAG: Ruthie, can you read back my
13 question?

14 (At this time, the previous question
15 was read back by the reporter as follows:

16 "Suffice it to say in truth and in
17 fact, with the highly mobile society that
18 is the United States today, it really
19 doesn't make any difference whether or not
20 a person has an Illinois driver's license
21 right now or not, whether they live in any
22 of the hundred and something Counties of
23 Illinois, or they live in California,
24 Montana, or Texas, as far as running a
25 complete background check on that --

1 individual mental health background check
2 on that individual, does it?")

3 THE WITNESS: I don't know that I can
4 answer that question. I think that there are a
5 lot of variables that go into that.

6 Q (By Mr. Maag): What are some of those
7 variables that go into that?

8 A I understand the point you are making,
9 but, you know, if they've, for instance, lived in
10 Illinois for the last twenty years versus -- you
11 know, twenty years prior to that versus just moving
12 to Illinois, I think there are variables into that,
13 to your point.

14 Q Let's assume that President Obama decided
15 to apply for a Concealed Carry license. It's my
16 understanding that he's lived in Indonesia; he's at
17 least traveled to Kenya -- whether or not he was
18 born there other people can argue about.

19 He's at least lived in Hawaii, whether he
20 was born there or not other people can argue about.
21 He's clearly lived in Illinois and been an Illinois
22 Senator. He clearly lives presently at 1600
23 Pennsylvania Avenue.

24 Why would Mr. Obama or why should
25 Mr. Obama assuming he gets the requisite training

1 not be eligible to apply for an Illinois State
2 Concealed Carry license?

3 MR. AZIZ: Objection, foundation,
4 speculative, and relevance.

5 Q (By Mr. Maag): You can answer.

6 A I don't believe I make those decisions. I
7 believe our legislator -- legislature makes those
8 decisions.

9 Q Do you believe that you would have any
10 difficulty running an appropriate background check
11 on Mr. Obama, if he were to apply?

12 A Do I think I would have difficulty running
13 a background check on him?

14 Q Yes.

15 A Yes, I do.

16 Q He doesn't show up in the same database as
17 everybody else does?

18 A I think any time you have someone that is
19 transient, you will. You're going to have
20 difficulties if they're on the criminal history
21 side, if they've had, you know, time with the law,
22 if they've been arrested or anything else.

23 If the person has never had any mental
24 health issues or any criminal issues, you're not
25 going to have those same problems.

1 Q Okay. The application for a concealed
2 weapons license asks about mental health and
3 criminal history records, correct?

4 A Yes, it does.

5 Q And answers are required to be submitted
6 under oath, correct?

7 A Yes.

8 Q And it's actually a criminal offense to
9 provide false information, correct?

10 A Correct.

11 Q And so when somebody applies for one of
12 the licenses from your bureau, whether they're from
13 Illinois or some other State, they have at least
14 provided sworn testimony or sworn evidence that
15 they're either eligible or they're not, conceivably
16 possible they could answer incorrectly to the
17 certain questions --

18 A Uh-huh.

19 Q -- correct?

20 A Correct.

21 Q And if nothing comes up to contradict the
22 information that is provided on the application in
23 the background checks, aside from what the
24 legislature may have written, your agency, your
25 bureau would have no reason to disapprove any of

1 those applications, correct?

2 A That's correct.

3 Q In fact, even if a person had been
4 adjudicated mentally defective or voluntarily
5 committed themselves after a divorce or something
6 like that, it is still possible for that person to
7 qualify for a license issued by your agency,
8 correct? They can have their rights restored?

9 A Correct.

10 Q Has anyone looked into whether or not
11 Illinois's requirement of having hospitals report to
12 the DHS voluntary check-in's or voluntary
13 commitments violates HIPAA?

14 MR. AZIZ: Objection, personal knowledge.

15 Q (By Mr. Maag): Do you understand that?

16 A I do not.

17 Q What is your understanding generally of
18 what HIPAA is?

19 A I understand that generally HIPAA outlines
20 the dissemination of someone's medical records.

21 Q And that would generally include mental
22 health records?

23 A Yes.

24 Q And of course, that's a Federal statute?

25 A Yes.

1 Q And in fact, it's my understanding that
2 the Federal Department of Health and Human Services
3 per an Attorney General announcement just a few days
4 ago is amending the regulations to clarify concerns
5 from many States that reporting involuntary
6 commitments might violate HIPAA. Are you aware of
7 that?

8 A No, I'm not.

9 Q Suffice it to say, as far as running a
10 mental health check for applicants to your agency,
11 whether they're Illinois residents or not, the same
12 gaps exist in what you're able to access for
13 residents as well as non-residents?

14 A Yes.

15 Q For persons who submit Concealed Carry
16 applications, SANS or without fingerprints, what is
17 the processing time supposed to be?

18 A I'm sorry, without fingerprints?

19 Q No fingerprints.

20 A A hundred and eighty days.

21 Q Double the time period if fingerprints are
22 included?

23 A Correct.

24 Q Are those mine (indicating)?

25 A Yes, those are yours.

1 Q Let's go off the record a minute.

2 (At this time, a short break was
3 taken off the record.)

4 Q (By Mr. Maag): Are there any other cases
5 pending that you're aware of that have this same
6 general topic, i.e., "Non-resident seeking Illinois
7 Concealed Carry permits"?

8 A Yes, I'm aware of one other case.

9 Q One other case?

10 A Uh-huh.

11 Q Yes?

12 A Yes.

13 Q And what case is that?

14 A I don't know the official name of it. It
15 involves Kevin Culp. I'm not aware of the official
16 name of the case.

17 Q Fair enough, I think that was disclosed in
18 the original discovery. That's the only one that
19 you're aware of?

20 A Yes, that I'm aware of.

21 Q Not saying that there are other ones,
22 but --

23 A No.

24 Q Who specifically made the determination of
25 which States were sufficiently similar and why, if

1 you know?

2 A There's not really a -- one person, I mean
3 that makes that decision. A survey was sent out and
4 there was direction given as to which questions on
5 the survey would be used to make the determination.

6 Q Who drafted the survey?

7 A Someone on my staff drafted it. I
8 reviewed it. It went through my chain of command,
9 through our legal department, through the Governor's
10 office.

11 Q I'll ask a loaded question. Which
12 Governor's office?

13 A It would have been Quinn.

14 Q It was obviously a split there which is
15 the reason I asked --

16 A Yeah.

17 Q And for the record, Quinn is now the
18 former Governor?

19 A Yes.

20 Q Okay. Would you agree with me that
21 generally speaking, subject admittedly to various
22 exceptions, it is a criminal offense for a person to
23 carry a firearm in Illinois without an Illinois
24 Concealed Carry license?

25 A Assuming they don't meet any of the

1 exceptions, yes.

2 Q All right. And the exceptions, for
3 instance, might be something like being a law
4 enforcement officer?

5 A Yes.

6 Q Carrying a pistol or revolver while
7 fishing and having a fishing license, that's one
8 most people don't know about. Did you review any
9 documents in preparation for this deposition today
10 that we have not already talked about?

11 A I don't think so. Can you remind me what
12 we've talked about, which documents we've talked
13 about?

14 Q Well, your affidavit for one, and at least
15 some of the surveys that were sent out of State.

16 A Correct, I reviewed those.

17 Q Anything else that you reviewed for
18 purposes of today's deposition?

19 A I don't know the correct terms. I'm
20 looking over there (indicating), sorry.

21 Q That's all right.

22 A I reviewed the Defendant's Responses to
23 Plaintiff's Request to Admit.

24 Q Okay.

25 A And the Interrogatories.

1 Q Okay. Your answers or my client's
2 answers?

3 A My answers.

4 Q Okay. Any other documents that you would
5 have reviewed for purposes of this deposition?

6 A I briefly reviewed the Concealed Carry
7 Act.

8 Q Okay. Anything else?

9 A No.

10 Q Excluding the two attorneys here today
11 that are representing you, did you speak with
12 anybody about this deposition today?

13 A No.

14 Q Okay. Did you do anything else to prepare
15 for this deposition other than possibly talking to
16 those two or possibly not talking to those two
17 attorneys, or reviewing the documents that you've
18 referenced?

19 A No.

20 Q Subject to any redirect, I think that's
21 all I have. Thank you.

22 QUESTIONS BY MR. AZIZ:

23 Q I just want to follow up on a few points
24 that were made during Mr. Maag's examination. You
25 said that you weren't sure if NLETS had driver's

1 license photos for Montana, correct?

2 A I'm not one hundred percent sure of that,
3 no.

4 Q So, it could be, it could not be, you're
5 just not sure one way or the other?

6 A Based on the information I gathered at the
7 time, it was my understanding that they provided
8 photographs.

9 Q Okay.

10 A But, I have not confirmed that
11 information.

12 Q Okay. Now, the Firearm Concealed
13 Carry Act -- correct me if I'm wrong -- the Firearm
14 Concealed Carry Act establishes the substantially
15 similar language with regard --

16 MR. MAAG: Object to the form of the
17 question.

18 Q (By Mr. Aziz): Okay. Do you -- does --
19 does the State Police have the authority to
20 interpret the Firearm Concealed Carry Act?

21 A Yes, we have the ability to make rules.

22 Q What statutory authority, if you know,
23 does the Concealed Carry Act provide with regard to
24 non-resident applications?

25 MR. MAAG: Objection, vague. Subject to

1 that.

2 THE WITNESS: I'm not sure that I can
3 answer that. The specific statute reference or
4 site?

5 Q (By Mr. Aziz): No, I'm asking you what
6 powers of interpretation does it give to the agency.

7 A It allows the rule making authority and we
8 chose to follow administrative rules and define
9 substantially similar in those rules.

10 Q Okay. And to your knowledge, the Act
11 gives you the power to do that?

12 A Yes.

13 Q Okay. So, did the State Police promulgate
14 regulations defining substantially similar?

15 A Yes.

16 Q Okay. And are those generally reflected
17 in the surveys that were sent?

18 A Yes, they were. Questions 1 through 4 in
19 the survey were directly taken from the rules.

20 Q Now, the Firearm Concealed Carry program
21 as to non-resident covers forty-nine States and
22 territories, correct?

23 A Correct.

24 Q And so this was an attempt to create a
25 uniform system for those territories, correct?

1 A Yes.

2 Q And so the rules were created to sort of
3 create that consistent system across non-resident
4 applications, correct?

5 MR. MAAG: Object to the form of the
6 question.

7 THE WITNESS: That's my understanding.

8 Q (By Mr. Aziz): Now, there was some
9 conversation you had with Mr. Maag about a
10 hypothetical Illinois resident who appeared to have
11 been from Montana and a Montana resident, is that
12 correct?

13 A Yes.

14 Q Could you -- when they become an Illinois
15 resident, any circumstances that would be reportable
16 would be able to be verified through an Illinois
17 database that it maintains for resident applicants?

18 MR. MAAG: Objection, vague. Object to
19 the form of the question.

20 THE WITNESS: Can you repeat the question?

21 Q (By Mr. Aziz): Sure, I'll rephrase it.
22 So, when you have an Illinois resident, there are --
23 there is reporting requirements to various databases
24 that State Police have access to?

25 A Yes.

1 Q And as you've discussed, the State Police
2 don't have access to those same types of information
3 about mental health records from other States,
4 right?

5 A Correct.

6 Q So, if an individual who is in Illinois
7 but a resident of another State were to go back to
8 their home State and receive mental health
9 treatment, would State Police be able to gather that
10 information?

11 A Not if it was voluntary.

12 Q What about involuntary?

13 A Assuming that that State reports the NICS,
14 we should be able to, yes.

15 Q Now, you had reviewed the Montana survey a
16 little bit ago --

17 A Yeah.

18 Q To your knowledge, does Montana report
19 involuntary mental health --

20 A No.

21 Q And the survey was filled out by the law
22 enforcement authorities in Montana, correct?

23 A The authority who is over their Concealed
24 Carry program or subsequent permit, similar permit.
25 I don't remember -- every State is a little bit

1 different, so I don't remember exactly what agency
2 it was in Montana.

3 Q So, as to both voluntary and involuntary
4 mental health institutionalization or treatments,
5 Montana does not provide information in a manner
6 that Illinois can have access to?

7 A That's what their survey indicated.

8 Q Now, you were questioned on some
9 hypotheticals regarding an individual who willfully
10 evaded the mental health treatment in Illinois. Do
11 you remember that?

12 A Yes.

13 Q If an individual were to get mental health
14 treatment in another State that Illinois does not
15 have access to their records and then apply for
16 Concealed Carry license, wouldn't they have to make
17 a false statement in order to submit their
18 application?

19 A Yes.

20 Q And that would -- that would be correct?

21 A That would be --

22 Q Illegal?

23 A Correct.

24 Q They would potentially be committing a
25 crime?

1 A Yes.

2 Q But, the application as written is an
3 attempt to gather information assuming someone isn't
4 actively breaking the law, correct?

5 A Correct.

6 Q Is there a way that you know of through
7 your position that Illinois could get access to
8 voluntary admissions from other States?

9 A No.

10 Q So, if someone wanted to violate the law
11 and evade information gathering techniques, that's
12 not something within the scope of Illinois -- the
13 State Police's control?

14 A No.

15 Q And I think I might have asked you this.
16 If someone -- if a non-resident received mental
17 health treatment, let's say in the Belleville area,
18 that would be information that could potentially
19 come into State Police's knowledge, correct?

20 A Yes.

21 Q But, if they went home and got it,
22 depending on the State, the State Police could not?

23 A Not if it was voluntary.

24 Q Well, let's talk about this case
25 specifically. The plaintiff as it's been discussed

1 is from -- is a resident of Montana and -- which is
2 the State as far as you know. If she were to go
3 home to her home State and be involuntarily
4 committed, would State Police find out about that?

5 A Based on the survey, no.

6 Q And if she -- that would be the same
7 answer if she tried to receive voluntary mental
8 health treatment?

9 A Correct.

10 MR. AZIZ: All right. That's all I have.

11 QUESTIONS BY MR. MAAG:

12 Q You were asked questions about whether or
13 not the State Police has the authority to make
14 rules. Do you remember that question?

15 A Yes.

16 Q Does the authority to make rules supercede
17 an agency's or a person's obligations under the
18 United States Constitution?

19 MR. AZIZ: Objection, calls for a legal
20 conclusion.

21 THE WITNESS: I don't know.

22 Q (By Mr. Maag): You don't know?

23 A No.

24 Q You were asked whether the State Police
25 promulgated regulations that defined substantially

1 similar. Do you remember that question?

2 A Yes.

3 Q Did the statute itself define
4 substantially similar?

5 A No.

6 Q Would it not be a reasonable
7 interpretation of substantially similar to simply be
8 a State that issues a Concealed Carry license?

9 MR. AZIZ: Objection, calls for a legal
10 conclusion.

11 THE WITNESS: No.

12 Q (By Mr. Maag): That wouldn't be a
13 reasonable interpretation, what I said?

14 A Not necessarily. There are States that
15 issue Concealed Carry permits or licenses that don't
16 even do backgrounds checks.

17 Q And what's one of those States?

18 A I can't think of one off the top of my
19 head, but I know I have seen documentation on that.
20 And that is dated documentation on that, and I know
21 things change very quickly from State to State.

22 Q So, you're unable to name a single State
23 today --

24 A Well, I would need to do some research.

25 Q I understand. But, as you sit here today,

1 you are unable to list a single State that issues a
2 Concealed Carry or Concealed Firearms license
3 without a background check?

4 A Right, I can't list one today.

5 Q Let's assume hypothetically that a person,
6 whether they're a resident or a non-resident, it
7 doesn't really matter, was issued an Illinois
8 Concealed Firearms license, put a firearm in their
9 pocket, concealed it, and would be walking down the
10 street and was arrested for -- doesn't matter what
11 the underlying offense is. The pistol was found and
12 it was determined that that person was in reality a
13 felon. Would the fact that they had an Illinois
14 Concealed Carry License prevent them from being
15 prosecuted for being a felon in possession?

16 MR. AZIZ: Objection, calls for a legal
17 conclusion, relevance.

18 THE WITNESS: I don't know for sure. I
19 don't know.

20 Q (By Mr. Maag): And that's true for a
21 person that may have a mental health
22 disqualification as well, correct?

23 MR. AZIZ: Objection. She answered the
24 previous question stating she did not know.

25 MR. MAAG: I understand.

1 THE WITNESS: So, the question is?

2 Q (By Mr. Maag): The question is a person
3 that arguably -- the person that had an Illinois
4 State Concealed Carry license that had some sort of
5 mental health disqualification that Illinois
6 recognized would still be subject to violations of
7 the law for violating the mental health
8 promulgations whether or not they actually had an
9 Illinois Concealed Carry license, correct?

10 A I don't know.

11 Q Does Illinois issue a Concealed Carry
12 license to any -- to a resident of a territory of
13 the United States, i.e., not one of the forty-nine
14 other States -- you were asked about territories.

15 A There's four other States. Is that what
16 you're asking?

17 Q Okay. I'll rephrase it. Illinois will
18 issue as I understand it a non-resident Concealed
19 Carry license to residents in four States,
20 specifically, Virginia, I think it's New Mexico,
21 Hawaii, and California --

22 A South Carolina, in this case.

23 Q South Carolina, okay. Will Illinois issue
24 a non-resident Concealed Carry license to a resident
25 of Puerto Rico, Guam, or any of the other U.S.

1 territories that are not U.S. States?

2 A No.

3 Q You were asked about reporting
4 requirements for Illinois residents. Isn't the real
5 issue reporting requirements for Illinois physicians
6 because it's the Illinois physician that may have an
7 obligation to report regardless of whether a person
8 is an Illinois resident or not, correct?

9 MR. AZIZ: Objection, argumentative. Go
10 ahead.

11 THE WITNESS: Well, if we're talking about
12 a hospitalization, it is an Illinois facility
13 that is required to report.

14 Q (By Mr. Maag): And that would be true
15 whether the person was a resident of Illinois,
16 Montana, or Mongolia?

17 A I believe so. I haven't reviewed that
18 statute specifically. I'm assuming it doesn't list
19 only Illinois residents.

20 Q Okay.

21 A I do not know that for sure.

22 Q And you were asked by Mr. Aziz about -- if
23 an applicant for a firearms license sought mental
24 health treatment that was otherwise disqualified in
25 Illinois outside of Illinois and then checked on the

1 application "No," that they didn't receive such
2 treatment, that would be a criminal offense, is that
3 correct?

4 A Yeah.

5 Q And that's true whether or not the
6 applicant was an Illinois resident, a resident of
7 Montana, or a resident of some foreign nation,
8 correct?

9 A Yes.

10 Q So, if someone wanted to violate the law,
11 I believe was the question, that's one possible
12 outcome, correct?

13 A Yes.

14 Q Another possible outcome if someone just
15 wanted to violate the law is they carry a firearm
16 without the appropriate license, correct?

17 A Yes.

18 Q Wouldn't it be more advantageous to the
19 State to know who potentially was carrying a firearm
20 as opposed to not knowing?

21 A Probably.

22 MR. MAAG: No further questions.

23 QUESTIONS BY MR. AZIZ:

24 Q Just on a couple points, just that you're
25 not an attorney, correct?

1 A No.

2 Q We've been using the term "substantially
3 similar." From your understanding, the law speaks
4 to substantially similar to what?

5 A To the laws and regulations in our State.

6 Q So, when we use the term "substantially
7 similar," we're trying to find States that -- whose
8 firearm laws are substantially similar to our laws,
9 correct?

10 A Correct.

11 Q Now, you're familiar with the FOID Act --

12 A Yes.

13 Q -- and the Firearm and Concealed Carry Act
14 which provides for licensure to possess and carry
15 firearms, correct?

16 A Yes.

17 Q And the State of Illinois has created
18 statutes and regulations to your knowledge that
19 basically condition licensure on certain criminal
20 history, certain mental health history --

21 A Right.

22 Q -- and age? And a multitude of other
23 factors?

24 A Yeah.

25 Q So, you had mentioned that you were

1 generally aware that there may be States that don't
2 do any -- I think you used the term "background
3 check"?

4 A Uh-huh.

5 Q And you weren't able to identify a
6 specific State. But, are you aware of States that
7 don't require licensure to possess firearms?

8 A Yeah.

9 Q Do you know of any of those?

10 A I was trying to think of the name. I'd be
11 pulling it out of --

12 Q Okay.

13 A I'm not a hundred percent.

14 Q But, such States exist to your knowledge?

15 A Yes.

16 Q And without a licensure regime, they may
17 not have the same conditions that Illinois places on
18 licensure, correct?

19 A Correct.

20 Q And that has to an extent been put into
21 these surveys and into the definition of
22 substantially similar, right, that -- that
23 disparity?

24 A Right.

25 MR. AZIZ: All right. Nothing further.

1 QUESTIONS BY MR. MAAG:

2 Q Isn't it true that most States do not
3 require a license to possess a firearm?

4 A I can't agree with that without looking.

5 Q Let's look at Virginia, one of the
6 substantially similar States. Isn't it true you
7 don't need a license to possess a firearm in
8 Virginia?

9 MR. AZIZ: Objection, foundation, personal
10 knowledge.

11 THE WITNESS: I don't know.

12 Q (By Mr. Maag): In fact, assuming you
13 comply with Federal law, you can possess machine
14 guns in Virginia, correct?

15 MR. AZIZ: Objection, foundation, personal
16 knowledge.

17 THE WITNESS: I don't know.

18 Q (By Mr. Maag): In Virginia, you can
19 possess assuming you comply with Federal law sawed
20 off shotguns and silencers, correct?

21 A I don't know.

22 Q But, you sent out a survey trying to
23 determine whether the laws were substantially
24 similar, correct?

25 A Yes.

1 Q In New Mexico, that's one of the
2 substantially similar States, isn't it true you
3 don't need a license to possess a firearm in New
4 Mexico?

5 MR. AZIZ: Objection, personal knowledge.

6 THE WITNESS: I don't know. The question
7 we asked is if they had a licensing program for
8 Concealed Carry.

9 Q (By Mr. Maag): Okay. So, the questions
10 Mr. Aziz just asked you about Illinois's licenses to
11 possess firearms and being substantially similar
12 does not factor -- did not factor in at all
13 concerning your agency's determination on whether a
14 State was substantially similar, correct?

15 A Not on all laws.

16 Q Clearly, the ability to possess or not
17 possess firearms without a license was not one of
18 the factors that --

19 A No.

20 Q -- was considered? Clearly, the
21 consideration of whether or not a State allowed
22 possession of machine guns, silencers, sawed off
23 shotguns which Illinois generally doesn't was not
24 one of the factors, correct?

25 A No.

1 Q Virginia, as I understand it, recognizes
2 Concealed Carry licenses under full reciprocity from
3 something like twenty-five other States. Well,
4 that's clearly different than Illinois, isn't it?

5 MR. AZIZ: Objection, foundation.

6 THE WITNESS: It is different.

7 Q (By Mr. Maag): Substantially different,
8 isn't it?

9 MR. AZIZ: Objection, calls for a legal
10 conclusion.

11 THE WITNESS: I don't know.

12 Q (By Mr. Maag): Suffice it to say the only
13 issue that apparently was -- strike that. No
14 further questions.

15 QUESTIONS BY MR. AZIZ:

16 Q The comparison that was made in the
17 substantially similar analysis is as to the ability
18 to Conceal Carry within a State, correct?

19 A Yes.

20 Q And you -- the State Police also inquired
21 about mental health records, both voluntary
22 involuntary, correct?

23 A Yes.

24 Q And to your knowledge, those were the
25 areas of law that the State Police determined to be

1 relevant for the substantially similar analysis, is
2 that right?

3 A That's my understanding, but I believe
4 there were more people involved in that than the
5 State Police.

6 Q Okay. Ultimately, though, the State
7 Police promulgated the regulations regarding
8 substantially similar and its definition, right?

9 A Yes.

10 MR. AZIZ: Okay. Nothing further.

11 MR. MAAG: Nothing further.

12 MR. AZIZ: Have you made a decision on
13 signature?

14 THE WITNESS: Okay, I don't need to read
15 it.

16 MR. AZIZ: Okay, we'll waive signature
17 then.

18 (SIGNATURE OF THE WITNESS WAS
19 WAIVED BY AGREEMENT OF COUNSEL AND CONSENT
20 OF THE WITNESS.)
21
22
23
24
25

CERTIFICATE OF REPORTER

I, RUTH S. MORRIS, an Illinois Certified Shorthand Reporter, do hereby certify that the witness whose testimony appears in the foregoing deposition transcript was duly sworn by me; that the testimony of said witness was taken by me to the best of my ability, and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto; nor am I financially or otherwise interested in the outcome of this action.

IN WITNESS WHEREOF I have hereunto set my hand this 15th day of January, 2016.

Ruth S. Morris

MO CCR 1154

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STATE OF ILLINOIS)

Samuel v. Trame, 15-780-NJR-SCW

COUNTY OF SANGAMON)

USDC-SDIL

AFFIDAVIT

I, JESSICA TRAME, upon oath, depose and state that I have personal knowledge of the statements contained in this Affidavit; I understand the contents of this affidavit to be true and correct; I am competent to testify; and if called to testify, I would testify as follows:

1. I am employed as the Bureau Chief of the Firearms Services Bureau (FSB or Bureau) of the Illinois State Police (ISP) and have served in that capacity since February 2012.

2. In my capacity as Bureau Chief, I am responsible for administering the Firearm Owner's Identification (FOID) Program, the Firearms Transfer Inquiry Program, and the Concealed Carry Licensing (CCL) Program, and I am familiar with the protocols and procedures of each program.

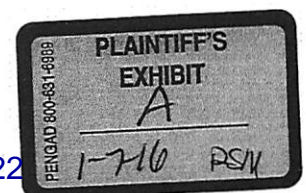
3. To qualify for a CCL, an Illinois resident must be eligible for and currently have a valid FOID Card. A non-resident does not need a valid FOID card to qualify for a CCL, but the Bureau is responsible for ensuring that a non-resident CCL applicant would meet the eligibility criteria to obtain a FOID card if he or she was an Illinois resident. The goal is to ensure that residents and non-residents are subject to the same substantive requirements to qualify for a CCL.

CCL Application Processing

4. In processing CCL applications, the Bureau performs an extensive background check on each applicant, as required by the FOID Card Act and Firearm Concealed Carry Act.

5. The first phase of the process is a quality check of the application to ensure the application is complete and not missing any required information. This step also includes verification of identity.

6. If there are no errors and the name, address, and other personal identifying information are validated, the application is moved to the eligibility determination phase. A background check is performed, including queries of national systems such as the National Crime Information Center (NCIC), National Instant Criminal Background Check System (NICS), Interstate Identification Index (III), Immigration and Customs Enforcement (ICE), the National Law Enforcement Telecommunications System (NLETS), and Illinois systems, including the Criminal History Record Information (CHRI) System, driver's license or identification systems maintained by the Secretary of State (SOS) and the Computerized Hot Files system, a central online repository for numerous officer and public safety information repositories, maintained by ISP.



7. In addition to the processes described above, the applicant's information is made available to Illinois law enforcement agencies, which may submit an objection to a CCL applicant based upon a reasonable suspicion that the applicant is a danger to himself, herself, or others, or is a threat to public safety. If a law enforcement objection is received, the CCL application is referred to the Concealed Carry Licensing Review Board, which reviews information submitted by the objecting law enforcement agency and the applicant. If the Board determines by a preponderance of the evidence that the applicant poses a danger to himself, herself, or others, or is a threat to public safety, then the Board affirms the objection of the law enforcement agency and notifies the Bureau that the applicant is ineligible for a license.

8. These various background check processes are intended to ensure public safety by identifying persons who are unqualified to carry firearms as responsible citizens.

Difficulties Verifying Non-Resident Applicants' Identities

9. As discussed above, the Bureau must verify a CCL applicant's identity while processing the application. For Illinois residents, an applicant's identity is verified through use of the Illinois Secretary of State's (SOS) driver's license or state ID systems to cross-reference the applicant's name, address, photo, and signature.

10. ISP does not have direct access to other states' driver's license, state ID or similar databases. To verify a non-resident's identity, the Bureau must rely on NLETS to check the validity of an out of state driver's license, including personal identifiers of the individual and address. Currently, ISP is not able to receive identifying photographs or signatures from NLETS, but has contracted for development of a system that will allow ISP to access this information from NLETS. Arizona, California, Colorado, Kansas, New York, New Hampshire, Oklahoma, South Carolina, and the District of Columbia do not currently make images available to NLETS, however.

Difficulties Verifying Non-Resident Criminal History

11. The Bureau must verify that a CCL applicant's criminal history does not render the applicant ineligible for a CCL. For Illinois residents, the Bureau is able to locate criminal history through Illinois' Criminal History Record Inquiry, a system maintained by ISP, from the Computerized Hot Files, and from federal systems.

12. The Firearm Services Bureau does not have direct access to other states' local or state criminal history databases, so the Bureau relies on federal databases to obtain criminal history information. Many states provide the federal databases with only a summary of an arrest, which will often be inadequate to assess the applicant's eligibility for a CCL. If a criminal record from the federal database is incomplete, ISP may request a record from the States' Identification Bureau or from the local jurisdiction, but many jurisdictions, including Los Angeles County, California; Milwaukee County, Wisconsin; and, Jackson County, Mississippi, charge for records, and ISP

does not have funds appropriated to pay for the record. As an example, attached hereto as Affidavit Exhibit A is a printout from the III dated August 17, 2015, redacted for identifying information, of an individual arrested in Mississippi in 2005 and charged with looting, a felony. The information does not disclose the disposition of the charge, however. After requesting criminal history information from Mississippi, ISP received a facsimile transmission, attached hereto as Affidavit Exhibit B, refusing ISP's request for lack of fees. Per the Jackson County Circuit Clerk, Pascagoula, MS, a search of the two criminal courts in Jackson County for the ten-year period (the applicant was arrested in 2005) requires a fee of \$20.00. To obtain information from the two civil courts, an additional \$20.00 is required. If ISP needed to search information for a twenty-year period in all four courts, a fee of \$80.00 is required. This also assumes, of course, that the only relevant information regarding the applicant exists in Jackson County, MS and not other jurisdictions in the state.

13. ISP uses NLETS to determine if the nonresident applicant's state-issued CCL is valid and to check the continued validity of the home-state-issued CCL every 90 days. NCIC is the mechanism criminal justice agencies use to access over 13 million active records. The NCIC database consists of 21 files, including 14 "persons" files including the National Sex Offender Registry, Foreign Fugitives, Immigration Violations, Mission Persons, Orders of Protection, and Wanted Persons. ISP accesses the NICS Index and the III through the NCIC network. The III is the national criminal history record system. When someone purchases a firearm, NICS verifies the validity of the Federal Firearms Licensed dealer and checks the NICS Index or "denied persons" files for persons prohibited from possessing firearms. All CCL applicants are also checked against the NICS Index.

14. The criminal history information available in federal databases may also be insufficient to determine a non-resident's criminal history because states are not uniform in their reporting of different levels and types of offenses. ISP is unable to obtain accurate and updated information via NLETS and NCIC for those states that do not fully participate in the systems.

15. The information available from the III, a federal criminal history database, also can be very limited. States are not uniform in their reporting of different levels and types of offenses. Only the National Fingerprint File (NFF) provides detailed extracts directly from states' local databases, and as of August 2015, only nineteen states participate as in the NFF. Those states are: Colorado, Florida, Georgia, Hawaii, Idaho, Iowa, Kansas, Maryland, Minnesota, Missouri, Montana, North Carolina, New Jersey, Ohio, Oklahoma, Oregon, Tennessee, West Virginia, and Wyoming.

Difficulties Verifying Non-Resident Mental Health Information

16. Pursuant to the FOID Act and Firearm Concealed Carry Act, an applicant is not eligible for an Illinois CCL if the applicant has been involuntarily admitted into a mental health facility, adjudicated mentally disabled or has been a patient in a mental health facility within the

past five years, regardless of the applicant's state of residence. If an applicant has been a patient in a mental health facility more than 5 years ago, a Mental Health Certification must be provided at the time of the application for a FOID card.

17. Through the Illinois Department of Human Services ("DHS") FOID Mental Health System, the Bureau can readily access information on Illinois mental health facility admissions and determine whether an individual has been involuntarily admitted into a mental health facility in Illinois or has been a patient in a mental health facility in Illinois within the past five years or more.

18. The DHS FOID Mental Health System contains no records of out-of-state mental health facility admissions. Further, ISP does not have access to other states' mental health facility admissions databases, if any exist.

19. In my experience as the Bureau Chief of the FSB, I am aware that the federal databases do not contain the voluntary mental health admission information necessary to determine whether an applicant was a patient in a mental health facility. Also, information concerning involuntary mental health admissions or mental disability adjudications is limited.

20. To search for mental health prohibitors for nonresidents, ISP is limited to information available through the NICS Index. NICS contains information from participating states regarding individuals prohibited from firearm possession for mental health reasons under 18 U.S.C. § 922(g)(4), but does not provide any information on voluntary mental health admissions.

Difficulties Obtaining Updated Non-Resident Information to Revoke a CCL

21. On a daily basis, all resident CCL holders are checked against the Illinois CHRI and DHS Mental Health Systems (by virtue of their FOID Card) for any new prohibitors (conditions that would disqualify a person from holding a FOID Card or CCL). All CCL holders, resident and nonresident, are checked against the federal databases on a quarterly basis.

22. Illinois Physicians or qualified examiners, Illinois Law Enforcement Officials, and Illinois School Administrators are required by law to report persons that may be a clear and present danger to themselves or others. Even if out-of-state personnel have reporting requirements in their own states, the ISP does not receive reports from out-of-state physicians, qualified examiners, law enforcement officials, or school administrators concerning out-of-state persons presenting a clear and present danger. Similarly, daily checks of the DHS Mental Health Systems do not reveal information concerning persons treated in other states.

23. Illinois Circuit Clerks are required by statute to report to ISP persons who have been adjudicated as mentally disabled or persons who have had a finding for an involuntary admittance to a mental health facility. I am aware of no other state that is required to, or does, report such cases to the ISP.

Substantially Similar Surveys

27. True and correct copies of the various states' responses and the response of the District of Columbia received by the ISP are attached hereto as Affidavit Exhibit C. Based on the states' responses to the survey, ISP created a summary, a true and correct copy of which is attached hereto as Affidavit Exhibit D. As noted in the summary, Colorado, Maine, Maryland, Massachusetts, Nevada, Pennsylvania, and Rhode Island did not respond to the ISP's request for information.


29. For example, Montana responded that it does not prohibit use or possession of firearms based on voluntary admissions to mental health facilities in the last five years and did not have a mechanism of tracking that information for its residents. *See* Affidavit Exhibit C.


App. 126

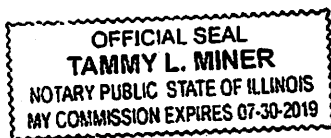
standard, it is likely the out-of-state applicants would not be held to the same standards set forth in the FOID Card Act or Firearm Concealed Carry Act as Illinois residents are held. Applications would have to be approved without a complete and thorough background check. Further, applicants residing in states that lack reporting and eligibility requirements similar to Illinois and who are issued licenses under the Firearm Concealed Carry Act cannot be held to the same monitoring standards necessary to ensure continued eligibility due to the lack of, and inability to obtain—either at all or in a timely manner—, information concerning those nonresidents.

FURTHER AFFIANT SAYETH NOT.

Subscribed and sworn to before me
this 30 day of November 2015.


JESSICA TRAME


Notary Public



STATE OF ILLINOIS) Samuel v. Trame, 15-780-NJR-SCW
)
COUNTY OF SANGAMON) USDC-SDIL

AFFIDAVIT

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7. In addition to the processes described above, the applicant's information is made available to Illinois law enforcement agencies, which may submit an objection to a CCL applicant based upon a reasonable suspicion that the applicant is a danger to himself, herself, or others, or is a threat to public safety. If a law enforcement objection is received, the CCL application is referred to the Concealed Carry Licensing Review Board, which reviews information submitted by the objecting law enforcement agency and the applicant. If the Board determines by a preponderance of the evidence that the applicant poses a danger to himself, herself, or others, or is a threat to public safety, then the Board affirms the objection of the law enforcement agency and notifies the Bureau that the applicant is ineligible for a license.

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24. DHS must report to the ISP all information collected pertaining to mental health treatment admissions, either voluntary or involuntary, as well as reports of patients deemed to be a clear and present danger. The purpose of this reporting is to determine if the patient is disqualified under state or federal law from possessing firearms. Out-of-state mental health facilities are not required by their states to report admissions or persons presenting a clear and present danger to DHS or to the ISP, and do not do so unless ISP makes a request for that information. Many out-of-state mental health entities do not provide this information even after an ISP request.

25. Access to the types of information described in the Illinois databases allows the Bureau to thoroughly screen for and actively monitor various issues that may be a basis to deny or revoke a FOID or CCL card. ISP's lack of access to this type of data held by other states would make it virtually impossible to effectively conduct this same level of screening and monitoring for nonresident CCL applicants.

Substantially Similar Surveys

26. In 2013, ISP sent surveys to each of the 49 other states and to the District of Columbia requesting information regarding their regulation of firearms use and reporting and tracking mechanisms relative to criminal activity and mental health issues. In 2014, ISP sent a second survey to those states that did not respond to the first survey.

27. True and correct copies of the various states' responses and the response of the District of Columbia received by the ISP are attached hereto as Affidavit Exhibit C. Based on the states' responses to the survey, ISP created a summary, a true and correct copy of which is attached hereto as Affidavit Exhibit D. As noted in the summary, Colorado, Maine, Maryland, Massachusetts, Nevada, Pennsylvania, and Rhode Island did not respond to the ISP's request for information.

28. Of those states responding, only Hawaii, New Mexico, South Carolina, and Virginia had laws, similar to Illinois, regulating who may carry firearms in public, reported persons authorized to carry through the NLETS, reported denied persons through the NICS, prohibited persons voluntarily admitted to a mental health facility in the last five years from possessing or using firearms, AND prohibited persons involuntarily admitted to mental health facilities from possessing or using firearms.

29. For example, Montana responded that it does not prohibit use or possession of firearms based on voluntary admissions to mental health facilities in the last five years and did not have a mechanism of tracking that information for its residents. *See* Affidavit Exhibit C.

30. The Bureau would not have the time or resources to properly research the necessary information for nonresident applicants if all such applicants could apply for a CCL. The Firearm Concealed Carry Act requires ISP to either approve or deny an application within as few as 90 days from the date received, subject to certain exceptions. To process the applications to this

standard, it is likely the out-of-state applicants would not be held to the same standards set forth in the FOID Card Act or Firearm Concealed Carry Act as Illinois residents are held. Applications would have to be approved without a complete and thorough background check. Further, applicants residing in states that lack reporting and eligibility requirements similar to Illinois and who are issued licenses under the Firearm Concealed Carry Act cannot be held to the same monitoring standards necessary to ensure continued eligibility due to the lack of, and inability to obtain—either at all or in a timely manner—, information concerning those nonresidents.

FURTHER AFFIANT SAYETH NOT.

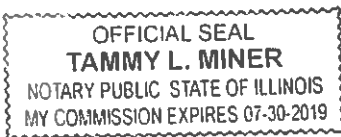
Subscribed and sworn to before me
this 30 day of November 2015.

/s Tammy L. Miner

Notary Public

/s Jessica Trame

JESSICA TRAME



From: nancy_easum@isp.state.il.us
Sent: Friday, January 13, 2017 4:06 PM
Subject: FOIR #17-0061
To: <k@culp.us>

January 13, 2017

Kevin Culp
k@culp.us
Re: FOIR #17-0061

Dear Mr. Culp:

Thank you for writing the Illinois State Police with your request for information pursuant to the Illinois Freedom of Information Act, 5 ILCS 140/1 et seq. On January 9, 2017, we received your request for the following: CY2016 Substantially Similar Surveys and Monthly CCLRB Report to the Governor and General Assembly for the months of September through December 2016.

Your request is granted. The documents you requested are attached.

\\

Please note no "substantially similar" survey was conducted in 2016. Therefore, no documents have been provided.

Nancy G. Easum
FOIA Officer
ISP Legal Office
217/557-1269



ILLINOIS STATE POLICE

Concealed Carry Licensing Annual Survey

Firearms Services Bureau
Illinois State Police

1. Does your state issue a Concealed Carry License?

YES	NO
<input checked="" type="checkbox"/>	<input type="checkbox"/>

a. If YES, for what length of time is the license issued?

1 year + 5 year Increments

b. At what age can an individual apply for a Concealed Carry License?

18 years

2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
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3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g)(4))?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
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5. Does your state report adjudicated mentally defective/committed persons to the NICS Index?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g)(4).

--

b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

a. If YES, are mental health admissions reported to your agency by an entity other than the applicant?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

If YES to 6.a., please describe.

--

b. If YES, does the applicant provide information concerning their mental health status at the time of application?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

c. If YES, is there any check or validation of the information provided by the applicant?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

If YES to 6.c., please describe.

d. If YES, please provide your state statute reference.

e. If NO, does your state have any process for prohibiting the use or possession of firearms based on a voluntary mental health admission to a treatment facility?

☐ YES ☒ NO

If YES to 6.e., please describe.

7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the consideration of mental health and the use or possession of firearms?

☐ YES ☒ NO

a. If YES, please describe.

8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses the concern of mental health treatment and the possession of firearms?

☐ YES ☒ NO

a. If YES, what is the effective date?

b. If YES, please provide a copy of the legislative language.

Person completing the survey:

Monica Early
Name

Assistant Attorney General
Title

msearly@ago.state.al.us
Email

AL AGO
Agency

Montgomery AL 36130
City, State, Zip code

334-242-7300
Telephone



ILLINOIS STATE POLICE
Concealed Carry Licensing Annual Survey

YES	NO
<input checked="" type="checkbox"/>	<input type="checkbox"/>

1. Does your state issue a Concealed Carry License?

a. If YES, for what length of time is the license issued?

Not more than five years.

b. At what age can an individual apply for a Concealed Carry License?

21 years of age.

2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
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a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
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3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g)(4))?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

5. Does your state report adjudicated mentally defective/committed persons to the NICS Index?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g)(4).

Commitments are reported by the state court system to this department, which in turn forwards the information to the NICS index.

b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

a. If YES, are mental health admissions reported to your agency by an entity other than the applicant?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

If YES to 6.a., please describe.

b. If YES, does the applicant provide information concerning their mental health status at the time of application?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

c. If YES, is there any check or validation of the information provided by the applicant?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

If YES to 6.c., please describe.

d. If YES, please provide your state statute reference.

e. If NO, does your state have any process for prohibiting the use or possession of firearms based on a voluntary mental health admission to a treatment facility?

☐

☒

If YES to 6.e., please describe.

7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the consideration of mental health and the use or possession of firearms?

☐

☒

a. If YES, please describe.

8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses the concern of mental health treatment and the possession of firearms?

☐

☒

a. If YES, what is the effective date?

b. If YES, please provide a copy of the legislative language.

Person completing the survey:

Eric Gaffney

Name

Records & Lic Supervisor

Title

Email

AK Dept of Public Safety

Agency

Anchorage, AK 99507

City, State, Zip code

(907) 269-5634

Telephone



ILLINOIS STATE POLICE
Concealed Carry Licensing Annual Survey

- | | |
|-------------------------------------|--------------------------|
| YES | NO |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> |
1. Does your state issue a Concealed Carry License?
- a. If YES, for what length of time is the license issued? 5 years
- b. At what age can an individual apply for a Concealed Carry License? 19 MILITARY / 21 others
2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License? ☒
- a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit? ☒
3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)? ☒
4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g)(4))? ☒
5. Does your state report adjudicated mentally defective/committed persons to the NICS Index? ☒
- a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g)(4).

Direct entry into NICS database from the courts.
- b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit? ☒
6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years? ☐
- a. If YES, are mental health admissions reported to your agency by an entity other than the applicant? ☐
- If YES to 6.a., please describe.
- b. If YES, does the applicant provide information concerning their mental health status at the time of application? ☐
- c. If YES, is there any check or validation of the information provided by the applicant? ☐

YES NO

If YES to 6.c., please describe.

d. If YES, please provide your state statute reference.

e. If NO, does your state have any process for prohibiting the use or possession of firearms based on a voluntary mental health admission to a treatment facility?

☐ ☒

If YES to 6.e., please describe.

7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the consideration of mental health and the use or possession of firearms?

☐ ☒

a. If YES, please describe.

8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses the concern of mental health treatment and the possession of firearms?

☐ ☒

a. If YES, what is the effective date?

b. If YES, please provide a copy of the legislative language.

Person completing the survey:

DONNA STREET

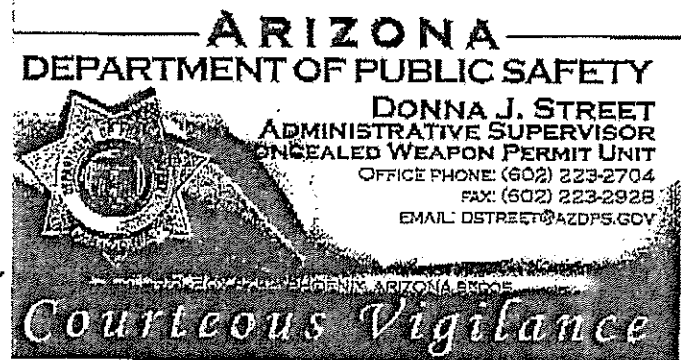
Name

SUPERVISOR

Title

DSTREET@AZDPS.GOV

Email



13-3112. Concealed weapons; qualification; application; permit to carry; civil penalty; report; applicability

A. The department of public safety shall issue a permit to carry a concealed weapon to a person who is qualified under this section. The person shall carry the permit at all times when the person is in actual possession of the concealed weapon and is required by section 4-229 or 4-244 to carry the permit. If the person is in actual possession of the concealed weapon and is required by section 4-229 or 4-244 to carry the permit, the person shall present the permit for inspection to any law enforcement officer on request.

B. The permit of a person who is arrested or indicted for an offense that would make the person unqualified under section 13-3101, subsection A, paragraph 7 or this section shall be immediately suspended and seized. The permit of a person who becomes unqualified on conviction of that offense shall be revoked. The permit shall be restored on presentation of documentation from the court if the permittee is found not guilty or the charges are dismissed. The permit shall be restored on presentation of documentation from the county attorney that the charges against the permittee were dropped or dismissed.

C. A permittee who carries a concealed weapon, who is required by section 4-229 or 4-244 to carry a permit and who fails to present the permit for inspection on the request of a law enforcement officer commits a violation of this subsection and is subject to a civil penalty of not more than three hundred dollars. The department of public safety shall be notified of all violations of this subsection and shall immediately suspend the permit. A permittee shall not be convicted of a violation of this subsection if the permittee produces to the court a legible permit that is issued to the permittee and that was valid at the time the permittee failed to present the permit for inspection.

D. A law enforcement officer shall not confiscate or forfeit a weapon that is otherwise lawfully possessed by a permittee whose permit is suspended pursuant to subsection C of this section, except that a law enforcement officer may take temporary custody of a firearm during an investigatory stop of the permittee.

* E. The department of public safety shall issue a permit to an applicant who meets all of the following conditions:

1. Is a resident of this state or a United States citizen.
2. Is twenty-one years of age or older or is at least nineteen years of age and provides evidence of current military service or proof of honorable discharge or general discharge under honorable conditions from the United States armed forces, the United States armed forces reserve or a state national guard.

3. Is not under indictment for and has not been convicted in any jurisdiction of a felony unless that conviction has been expunged, set aside or vacated or the applicant's rights have been restored and the applicant is currently not a prohibited possessor under state or federal law.

4. Does not suffer from mental illness and has not been adjudicated mentally incompetent or committed to a mental institution.

5. Is not unlawfully present in the United States.

6. Has ever demonstrated competence with a firearm as prescribed by subsection N of this section and provides adequate documentation that the person has satisfactorily completed a training program or demonstrated competence with a firearm in any state or political subdivision in the United States. For the purposes of this paragraph, "adequate documentation" means:

(a) A current or expired permit issued by the department of public safety pursuant to this section.

(b) An original or copy of a certificate, card or document that shows the applicant has ever completed any course or class prescribed by subsection

N of this section or an affidavit from the instructor, school, club or organization that conducted or taught the course or class attesting to the applicant's completion of the course or class.

(c) An original or a copy of a United States department of defense form 214 (DD-214) indicating an honorable discharge or general discharge under honorable conditions, a certificate of completion of basic training or any other document demonstrating proof of the applicant's current or former service in the United States armed forces as prescribed by subsection N, paragraph 5 of this section.

(d) An original or a copy of a concealed weapon, firearm or handgun permit or a license as prescribed by subsection N, paragraph 6 of this section.

F. The application shall be completed on a form prescribed by the department of public safety. The form shall not require the applicant to disclose the type of firearm for which a permit is sought. The applicant shall attest under penalty of perjury that all of the statements made by the applicant are true, that the applicant has been furnished a copy of this chapter and chapter 4 of this title and that the applicant is knowledgeable about the provisions contained in those chapters. The applicant shall submit the application to the department with any documentation prescribed by subsection E of this section, two sets of fingerprints and a reasonable fee determined by the director of the department.

G. On receipt of a concealed weapon permit application, the department of public safety shall conduct a check of the applicant's criminal history record pursuant to section 41-1750. The department of public safety may exchange fingerprint card information with the federal bureau of investigation for federal criminal history record checks.

H. The department of public safety shall complete all of the required qualification checks within sixty days after receipt of the application and shall issue a permit within fifteen working days after completing the qualification checks if the applicant meets all of the conditions specified in subsection E of this section. If a permit is denied, the department of public safety shall notify the applicant in writing within fifteen working days after the completion of all of the required qualification checks and shall state the reasons why the application was denied. On receipt of the notification of the denial, the applicant has twenty days to submit any additional documentation to the department. On receipt of the additional documentation, the department shall reconsider its decision and inform the applicant within twenty days of the result of the reconsideration. If denied, the applicant shall be informed that the applicant may request a hearing pursuant to title 41, chapter 6, article 10. For the purposes of this subsection, "receipt of the application" means the first day that the department has physical control of the application and that is presumed to be on the date of delivery as evidenced by proof of delivery by the United States postal service or a written receipt, which shall be provided by the department on request of the applicant.

I. On issuance, a permit is valid for five years, except a permit that is held by a member of the United States armed forces, including a member of the Arizona national guard or a member of the reserves of any military establishment of the United States, who is on federal active duty and who is deployed overseas shall be extended until ninety days after the end of the member's overseas deployment.

J. The department of public safety shall maintain a computerized permit record system that is accessible to criminal justice agencies for the purpose of confirming the permit status of any person who is contacted by a law enforcement officer and who claims to hold a valid permit issued by this state. This information and any other records that are maintained regarding applicants, permit holders or instructors shall not be available to any other

person or entity except on an order from a state or federal court. A criminal justice agency shall not use the computerized permit record system to conduct inquiries on whether a person is a concealed weapons permit holder unless the criminal justice agency has reasonable suspicion to believe the person is carrying a concealed weapon and the person is subject to a lawful criminal investigation, arrest, detention or an investigatory stop.

K. A permit issued pursuant to this section is renewable every five years. Before a permit may be renewed, a criminal history records check shall be conducted pursuant to section 41-1750 within sixty days after receipt of the application for renewal. For the purposes of permit renewal, the permit holder is not required to submit additional fingerprints.

L. Applications for renewal shall be accompanied by a fee determined by the director of the department of public safety.

M. The department of public safety shall suspend or revoke a permit issued under this section if the permit holder becomes ineligible pursuant to subsection E of this section. The department of public safety shall notify the permit holder in writing within fifteen working days after the revocation or suspension and shall state the reasons for the revocation or suspension.

N. An applicant shall demonstrate competence with a firearm through any of the following:

1. Completion of any firearms safety or training course or class that is available to the general public, that is offered by a law enforcement agency, a junior college, a college or a private or public institution, academy, organization or firearms training school and that is approved by the department of public safety or that uses instructors who are certified by the national rifle association.

2. Completion of any hunter education or hunter safety course approved by the Arizona game and fish department or a similar agency of another state.

3. Completion of any national rifle association firearms safety or training course.

4. Completion of any law enforcement firearms safety or training course or class that is offered for security guards, investigators, special deputies or other divisions or subdivisions of law enforcement or security enforcement and that is approved by the department of public safety.

5. Evidence of current military service or proof of honorable discharge or general discharge under honorable conditions from the United States armed forces.

6. A valid current or expired concealed weapon, firearm or handgun permit or license that is issued by another state or a political subdivision of another state and that has a training or testing requirement for initial issuance.

7. Completion of any governmental police agency firearms training course and qualification to carry a firearm in the course of normal police duties.

8. Completion of any other firearms safety or training course or class that is conducted by a department of public safety approved or national rifle association certified firearms instructor.

O. The department of public safety shall maintain information comparing the number of permits requested, the number of permits issued and the number of permits denied. The department shall annually report this information to the governor and the legislature.

P. The director of the department of public safety shall adopt rules for the purpose of implementing and administering this section including fees relating to permits that are issued pursuant to this section.

Q. This state and any political subdivision of this state shall recognize a concealed weapon, firearm or handgun permit or license that is issued by another state or a political subdivision of another state if both:

1. The permit or license is recognized as valid in the issuing state.

2. The permit or license holder is all of the following:

- (a) Legally present in this state.
- (b) Not legally prohibited from possessing a firearm in this state.

R. For the purpose of establishing mutual permit or license recognition with other states, the department of public safety shall enter into a written agreement if another state requires a written agreement.

S. Notwithstanding the provisions of this section, a person with a concealed weapons permit from another state may not carry a concealed weapon in this state if the person is under twenty-one years of age or is under indictment for, or has been convicted of, a felony offense in any jurisdiction, unless that conviction is expunged, set aside or vacated or the person's rights have been restored and the person is currently not a prohibited possessor under state or federal law.

T. The department of public safety may issue certificates of firearms proficiency according to the Arizona peace officer standards and training board firearms qualification for the purposes of implementing the law enforcement officers safety act of 2004 (P.L. 108-277; 118 Stat. 865; 18 United States Code sections 926B and 926C). A law enforcement or prosecutorial agency shall issue to a qualified retired law enforcement officer who has honorably retired a photographic identification that states that the officer has honorably retired from the agency. A person who was a municipal, county or state prosecutor is deemed to meet the qualifications of 18 United States Code section 926C(c)(2). The chief law enforcement officer shall determine whether an officer has honorably retired and the determination is not subject to review. A law enforcement or prosecutorial agency has no obligation to revoke, alter or modify the honorable discharge photographic identification based on conduct that the agency becomes aware of or that occurs after the officer has separated from the agency. For the purposes of this subsection, "qualified retired law enforcement officer" has the same meaning prescribed in 18 United States Code section 926C.

U. The initial and renewal application fees collected pursuant to this section shall be deposited, pursuant to sections 35-146 and 35-147, in the concealed weapons permit fund established by section 41-1722.

13-3101. Definitions

A. In this chapter, unless the context otherwise requires:

1. "Deadly weapon" means anything that is designed for lethal use. The term includes a firearm.
2. "Deface" means to remove, alter or destroy the manufacturer's serial number.
3. "Explosive" means any dynamite, nitroglycerine, black powder, or other similar explosive material, including plastic explosives. Explosive does not include ammunition or ammunition components such as primers, percussion caps, smokeless powder, black powder and black powder substitutes used for hand loading purposes.
4. "Firearm" means any loaded or unloaded handgun, pistol, revolver, rifle, shotgun or other weapon that will expel, is designed to expel or may readily be converted to expel a projectile by the action of an explosive. Firearm does not include a firearm in permanently inoperable condition.
5. "Improvised explosive device" means a device that incorporates explosives or destructive, lethal, noxious, pyrotechnic or incendiary chemicals and that is designed to destroy, disfigure, terrify or harass.
6. "Occupied structure" means any building, object, vehicle, watercraft, aircraft or place with sides and a floor that is separately securable from any other structure attached to it, that is used for lodging, business, transportation, recreation or storage and in which one or more human beings either are or are likely to be present or so near as to be in equivalent danger at the time the discharge of a firearm occurs. Occupied structure includes any dwelling house, whether occupied, unoccupied or vacant.
7. "Prohibited possessor" means any person:
 - (a) Who has been found to constitute a danger to self or to others or to have persistent or acute disabilities or grave disabilities pursuant to court order pursuant to section 36-540, and whose right to possess a firearm has not been restored pursuant to section 13-925.
 - (b) Who has been convicted within or without this state of a felony or who has been adjudicated delinquent for a felony and whose civil right to possess or carry a gun or firearm has not been restored.
 - (c) Who is at the time of possession serving a term of imprisonment in any correctional or detention facility.
 - (d) Who is at the time of possession serving a term of probation pursuant to a conviction for a domestic violence offense as defined in section 13-3601 or a felony offense, parole, community supervision, work furlough, home arrest or release on any other basis or who is serving a term of probation or parole pursuant to the interstate compact under title 31, chapter 3, article 4.1.
 - (e) Who is an undocumented alien or a nonimmigrant alien traveling with or without documentation in this state for business or pleasure or who is studying in this state and who maintains a foreign residence abroad. This subdivision does not apply to:
 - (i) Nonimmigrant aliens who possess a valid hunting license or permit that is lawfully issued by a state in the United States.
 - (ii) Nonimmigrant aliens who enter the United States to participate in a competitive target shooting event or to display firearms at a sports or hunting trade show that is sponsored by a national, state or local firearms trade organization devoted to the competitive use or other sporting use of firearms.
 - (iii) Certain diplomats.
 - (iv) Officials of foreign governments or distinguished foreign visitors who are designated by the United States department of state.
 - (v) Persons who have received a waiver from the United States attorney general.

(f) Who has been found incompetent pursuant to rule 11, Arizona rules of criminal procedure, and who subsequently has not been found competent.

(g) Who is found guilty except insane.

8. "Prohibited weapon":

(a) Includes the following:

(i) An item that is a bomb, grenade, rocket having a propellant charge of more than four ounces or mine and that is explosive, incendiary or poison gas.

(ii) A device that is designed, made or adapted to muffle the report of a firearm.

(iii) A firearm that is capable of shooting more than one shot automatically, without manual reloading, by a single function of the trigger.

(iv) A rifle with a barrel length of less than sixteen inches, or shotgun with a barrel length of less than eighteen inches, or any firearm that is made from a rifle or shotgun and that, as modified, has an overall length of less than twenty-six inches.

(v) An instrument, including a nunchaku, that consists of two or more sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire or chain, in the design of a weapon used in connection with the practice of a system of self-defense.

(vi) A breakable container that contains a flammable liquid with a flash point of one hundred fifty degrees Fahrenheit or less and that has a wick or similar device capable of being ignited.

(vii) A chemical or combination of chemicals, compounds or materials, including dry ice, that is possessed or manufactured for the purpose of generating a gas to cause a mechanical failure, rupture or bursting or an explosion or detonation of the chemical or combination of chemicals, compounds or materials.

(viii) An improvised explosive device.

(ix) Any combination of parts or materials that is designed and intended for use in making or converting a device into an item set forth in item (i), (vi) or (viii) of this subdivision.

(b) Does not include:

(i) Any fireworks that are imported, distributed or used in compliance with state laws or local ordinances.

(ii) Any propellant, propellant actuated devices or propellant actuated industrial tools that are manufactured, imported or distributed for their intended purposes.

(iii) A device that is commercially manufactured primarily for the purpose of illumination.

9. "Trafficking" means to sell, transfer, distribute, dispense or otherwise dispose of a weapon or explosive to another person, or to buy, receive, possess or obtain control of a weapon or explosive, with the intent to sell, transfer, distribute, dispense or otherwise dispose of the weapon or explosive to another person.

B. The items set forth in subsection A, paragraph 8, subdivision (a), items (i), (ii), (iii) and (iv) of this section do not include any firearms or devices that are registered in the national firearms registry and transfer records of the United States treasury department or any firearm that has been classified as a curio or relic by the United States treasury department.



ILLINOIS STATE POLICE
Concealed Carry Licensing Annual Survey

YES	NO
<input checked="" type="checkbox"/>	<input type="checkbox"/>

1. Does your state issue a Concealed Carry License?

a. If YES, for what length of time is the license issued?

5 years

b. At what age can an individual apply for a Concealed Carry License? *21 - see attached exception*

2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
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4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g)(4))?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

5. Does your state report adjudicated mentally defective/committed persons to the NICS Index?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g)(4).

Adjudications/commitment are reported to AR Crime Information Center, which reports to Nics.

b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

a. If YES, are mental health admissions reported to your agency by an entity other than the applicant?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

If YES to 6.a., please describe.

b. If YES, does the applicant provide information concerning their mental health status at the time of application?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

c. If YES, is there any check or validation of the information provided by the applicant?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

YES	NO
-----	----

If YES to 6.c., please describe.

--

d. If YES, please provide your state statute reference.

--

e. If NO, does your state have any process for prohibiting the use or possession of firearms based on a voluntary mental health admission to a treatment facility?

	✓
--	---

If YES to 6.e., please describe.

--

7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the consideration of mental health and the use or possession of firearms?

✓	
---	--

a. If YES, please describe.

Please see attached.

8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses the concern of mental health treatment and the possession of firearms?

	✓
--	---

a. If YES, what is the effective date?

--

b. If YES, please provide a copy of the legislative language.

Person completing the survey:

Mary Claire McLaurin
Name

Attorney Specialist
Title

mary.mclaurin@asp.arkansas.gov
Email

AR State Police
Agency

Little Rock, AR 72209
City, State, Zip code

501 618 8630
Telephone



Asa Hutchinson
Governor

ARKANSAS STATE POLICE

1 State Police Plaza Drive Little Rock, Arkansas 72209-4822 www.asp.arkansas.gov

"SERVING WITH PRIDE AND DISTINCTION SINCE 1935"



William J. Bryant
Director

ARKANSAS STATE POLICE COMMISSION

Frank Gunn, Jr.
Vice-Chairman
Paragould

Dr. Lewis Shepherd
Secretary
Arkadelphia

John Allison
Conway

Bob Burns
Little Rock

Jane Dunlap Christenson
Harrison

Neff Basore
Bella Vista

Bill Benton
Heber Springs

RECEIVED

OCT 09 2015

Firearms Services Bureau
Illinois State Police

October 6, 2015

FIREARMS SERVICES BUREAU
Illinois State Police
801 South Seventh Street, Suite 400-M
Springfield, Illinois 62703

Re: Questionnaire for Non-Resident Concealed Handgun Licenses

To Whom It May Concern:

I enclose a completed questionnaire in response to your inquiry regarding Arkansas laws for concealed handgun carry licensing.

With regard to question number 6 and the corresponding sub-questions, I want to provide some clarification. The question asks whether the state of Arkansas prohibits "the use or possession of firearms based on a voluntary mental health admission within the last five years." The answer to this question is "no" – there are no blanket prohibitions on *use or possession* of firearms based on a voluntary admission. However, an applicant for a concealed handgun carry license is ineligible to receive such license to carry concealed in the state of Arkansas if they have ever had a voluntary commitment to a mental institution or mental health treatment facility. See Ark. Code Ann. § 5-73-309(11) for further information.

Should you have any questions or concerns, do not hesitate to contact me.

Sincerely,

Mary Claire McLaurin
Attorney Specialist
Regulatory Division
Ph 501-618-8630
mary.mclaurin@asp.arkansas.gov

West's Arkansas Code Annotated

Title 5. Criminal Offenses (Refs & Annos)

Subtitle 6. Offenses Against Public Health, Safety, or Welfare (Chapters 60 to 79)

Chapter 73. Weapons (Refs & Annos)

Subchapter 3. Concealed Handguns (Refs & Annos)

A.C.A. § 5-73-309

§ 5-73-309. License--Requirements

Effective: July 22, 2015

Currentness

The Director of the Department of Arkansas State Police shall issue a license to carry a concealed handgun if the applicant:

(1) Is a citizen of the United States or a permanent legal resident;

(2)(A) Is a resident of the state and has been a resident continuously for ninety (90) days or longer immediately preceding the filing of the application.

(B) However, subdivision (2)(A) of this section does not apply to any:

(i) Active duty member of the United States Armed Forces who submits documentation of his or her active duty status; or

(ii) Spouse of an active duty member of the United States Armed Forces who submits documentation of his or her spouse's active duty status;

(3) Is at least:

(A) Twenty-one (21) years of age; or

(B) Eighteen (18) years of age and is:

(i) Currently a federally recognized commissioned or noncommissioned officer or an enlisted member on active duty in the United States Armed Forces;

(ii) In the National Guard or a reserve component of the United States Armed Forces; or

(iii) A former member of the United States Armed Forces that has been honorably discharged;

(4) Does not suffer from a mental or physical infirmity that prevents the safe handling of a handgun and has not threatened or attempted suicide;

(5)(A) Has not been convicted of a felony in a court of this state, of any other state, or of the United States without having been pardoned for conviction and had firearms possession rights restored.

(B) A record of a conviction that has been sealed or expunged under Arkansas law does not render an applicant ineligible to receive a concealed handgun license if:

(i) The applicant was sentenced prior to March 13, 1995; or

(ii) The order sealing or expunging the applicant's record of conviction complies with § 16-90-605;

(6) Is not subject to any federal, state, or local law that makes it unlawful to receive, possess, or transport any firearm, and has had his or her background check successfully completed through the Department of Arkansas State Police and the Federal Bureau of Investigation's National Instant Criminal Background Check System;

(7)(A) Does not chronically or habitually abuse a controlled substance to the extent that his or her normal faculties are impaired.

(B) It is presumed that an applicant chronically and habitually uses a controlled substance to the extent that his or her faculties are impaired if the applicant has been voluntarily or involuntarily committed to a treatment facility for the abuse of a controlled substance or has been found guilty of a crime under the provisions of the Uniform Controlled Substances Act, § 5-64-101 et seq., or a similar law of any other state or the United States relating to a controlled substance within the three-year period immediately preceding the date on which the application is submitted;

(8)(A) Does not chronically or habitually use an alcoholic beverage to the extent that his or her normal faculties are impaired.

(B) It is presumed that an applicant chronically and habitually uses an alcoholic beverage to the extent that his or her normal faculties are impaired if the applicant has been voluntarily or involuntarily committed as an alcoholic to a treatment facility or has been convicted of two (2) or more offenses related to the use of alcohol under a law of this state or similar law of any other state or the United States within the three-year period immediately preceding the date on which the application is submitted;

(9) Desires a legal means to carry a concealed handgun to defend himself or herself;

(10) Has not been adjudicated mentally incompetent;

(11) Has not been voluntarily or involuntarily committed to a mental institution or mental health treatment facility;

(12) Is not a fugitive from justice or does not have an active warrant for his or her arrest;

(13) Has satisfactorily completed a training course as prescribed and approved by the director; and

(14) Signs a statement of allegiance to the United States Constitution and the Arkansas Constitution.

Credits

Acts of 1995, Act 411, § 2; Acts of 1995, Act 419, § 2; amended by Acts of 1997, Act 368, § 1, eff. March 6, 1997; Acts of 1997, Act 1239, § 10; Acts of 1999, Act 51, § 1, eff. Feb. 11, 1999; Acts of 2003, Act 545, §§ 1, 5, eff. July 16, 2003; Acts of 2007, Act 198, § 1, eff. July 31, 2007; Acts of 2007, Act 664, § 3, eff. July 31, 2007; Acts of 2013, Act 989, § 1, eff. Aug. 16, 2013; Acts of 2015, Act 105, § 1, eff. July 22, 2015; Acts of 2015, Act 649, § 1, eff. July 22, 2015.

A.C.A. § 5-73-309, AR ST § 5-73-309

Current through 2015 Reg. Sess. and 2015 1st Ex. Sess. of the 90th Arkansas General Assembly., including changes made by the Ark. Code Rev. Comm. received through 5/1/2015.

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West's Arkansas Code Annotated

Title 5. Criminal Offenses (Refs & Annos)

Subtitle 6. Offenses Against Public Health, Safety, or Welfare (Chapters 60 to 79)

Chapter 73. Weapons (Refs & Annos)

Subchapter 1. Possession and Use Generally (Refs & Annos)

A.C.A. § 5-73-103

§ 5-73-103. Firearm possession--Restrictions

Effective: July 31, 2009

Currentness

(a) Except as provided in subsection (d) of this section or unless authorized by and subject to such conditions as prescribed by the Governor, or his or her designee, or the Bureau of Alcohol, Tobacco, Firearms and Explosives of the United States Department of Justice, or other bureau or office designated by the United States Department of Justice, no person shall possess or own any firearm who has been:

(1) Convicted of a felony;

(2) Adjudicated mentally ill; or

(3) Committed involuntarily to any mental institution.

(b)(1) Except as provided in subdivisions (b)(2) and (3) of this section, a determination by a jury or a court that a person committed a felony constitutes a conviction for purposes of subsection (a) of this section even though the court suspended imposition of sentence or placed the defendant on probation.

(2) Subdivision (b)(1) of this section does not apply to a person whose case was dismissed and expunged under § 16-93-301 et seq. or § 16-98-303(g).

(3) The determination by the jury or court that the person committed a felony does not constitute a conviction for purposes of subsection (a) of this section if the person is subsequently granted a pardon explicitly restoring the ability to possess a firearm.

(c)(1) A person who violates this section commits a Class B felony if:

(A) The person has a prior violent felony conviction;

(B) The person's current possession of a firearm involves the commission of another crime; or

(C) The person has been previously convicted under this section or a similar provision from another jurisdiction.

(2) A person who violates this section commits a Class D felony if he or she has been previously convicted of a felony and his or her present conduct or the prior felony conviction does not fall within subdivision (c)(1) of this section.

(3) Otherwise, the person commits a Class A misdemeanor.

(d) The Governor may restore without granting a pardon the right of a convicted felon or an adjudicated delinquent to own and possess a firearm upon the recommendation of the chief law enforcement officer in the jurisdiction in which the person resides, so long as the underlying felony or delinquency adjudication:

(1) Did not involve the use of a weapon; and

(2) Occurred more than eight (8) years ago.

Credits

Acts of 1975, Act 280, § 3103; Acts of 1977, Act 360, § 18; Acts of 1987, Act 74, § 1; Acts of 1994, 2nd Ex. Sess., Act 63, § 1, eff. Aug. 26, 1994; Acts of 1995, Act 595, § 1, eff. March 13, 1995; Acts of 1995, Act 1325, § 1; Acts of 2001, Act 1429, § 1, eff. Aug. 13, 2001; Acts of 2009, Act 1491, § 1, eff. July 31, 2009.

Formerly A.S.A. 1947, § 41-3103.

Notes of Decisions (66)

A.C.A. § 5-73-103, AR ST § 5-73-103

Current through 2015 Reg. Sess. and 2015 1st Ex. Sess. of the 90th Arkansas General Assembly., including changes made by the Ark. Code Rev. Comm. received through 5/1/2015.

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West's Arkansas Code Annotated

Title 5. Criminal Offenses (Refs & Annos)

Subtitle 6. Offenses Against Public Health, Safety, or Welfare (Chapters 60 to 79)

Chapter 73. Weapons (Refs & Annos)

Subchapter 1. Possession and Use Generally (Refs & Annos)

A.C.A. § 5-73-110

§ 5-73-110. Disarming minors and mentally defective or irresponsible persons--Disposition of property seized

Effective: July 22, 2015

Currentness

(a) Subject to constitutional limitation, nothing in this section and §§ 5-73-101 -- 5-73-109 shall be construed to prohibit a law enforcement officer from disarming, without arresting, a minor or person who reasonably appears to be mentally defective or otherwise mentally irresponsible, when that person is in possession of a deadly weapon.

(b) Property seized under subsection (a) of this section shall be:

(1) Held for seventy-two (72) hours by the law enforcement agency employing the law enforcement officer who seized the property; and

(2) After the seventy-two-hour hold and upon request and presentation of valid proof of ownership, returned to the:

(A) Owner, if he or she is eighteen (18) years of age or older and may lawfully possess the property; or

(B) Parent or legal guardian of the owner, if the owner is a minor, and the parent or legal guardian may lawfully possess the property.

Credits

Acts of 1975, Act 280, § 3110; Acts of 2015, Act 688, § 1, eff. July 22, 2015.

Formerly A.S.A. 1947, § 41-3110.

A.C.A. § 5-73-110, AR ST § 5-73-110

Current through 2015 Reg. Sess. and 2015 1st Ex. Sess. of the 90th Arkansas General Assembly., including changes made by the Ark. Code Rev. Comm. received through 5/1/2015.

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ILLINOIS STATE POLICE
Concealed Carry Licensing Annual Survey

YES	NO
<input checked="" type="checkbox"/>	<input type="checkbox"/>

1. Does your state issue a Concealed Carry License?

a. If YES, for what length of time is the license issued?

5 years, Note it is a permit to carry not a Concealed Carry Permit.

b. At what age can an individual apply for a Concealed Carry License?

For Pistol and Revolvers 21, for Long guns 18

2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g)(4))?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

5. Does your state report adjudicated mentally defective/committed persons to the NICS Index?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g)(4).

This is a process completed by DMHAS (Department of mental health and Addiction Services).

b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. If YES, are mental health admissions reported to your agency by an entity other than the applicant?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

If YES to 6.a., please describe.

This process is also handles by the Department of Mental Health and Addiction Services.

b. If YES, does the applicant provide information concerning their mental health status at the time of application?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

c. If YES, is there any check or validation of the information provided by the applicant?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

If YES to 6.c., please describe.

Once DMHAS enters it, the applicant has no choice but to accept the DENIAL until the flag falls off.

d. If YES, please provide your state statute reference.

CGS 29-28

e. If NO, does your state have any process for prohibiting the use or possession of firearms based on a voluntary mental health admission to a treatment facility?

☒ ☐

If YES to 6.e., please describe.

They are prohibited for 6 months from obtaining a firearm or a permit.

7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the consideration of mental health and the use or possession of firearms?

☐ ☒

a. If YES, please describe.

8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses the concern of mental health treatment and the possession of firearms?

☐ ☒

a. If YES, what is the effective date?

b. If YES, please provide a copy of the legislative language.

Person completing the survey:

Imisa Rivera

Name

Unit Supervisor

Title

Email

DESPP

Agency

Middletown, CT 06457

City, State, Zip code

(860) 685-8011

Telephone



ILLINOIS STATE POLICE
Concealed Carry Licensing Annual Survey

	YES	NO
1. Does your state issue a Concealed Carry License? <i>Permit to carry (not specific to concealed)</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a. If YES, for what length of time is the license issued?	Five years	
b. At what age can an individual apply for a Concealed Carry License?	21	
2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit? <i>at renewal (5 yrs) or purchase</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g)(4))?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Does your state report adjudicated mentally defective/committed persons to the NICS Index?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g)(4).	<i>The Judicial Dept and Dept. of Mental Health + Addiction Services report to us, and our database forwards to NICS.</i>	
b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit? <i>at renewal (5 yrs) or purchase</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last <u>five</u> years?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
a. If YES, are mental health admissions reported to your agency by an entity other than the applicant?	<input type="checkbox"/>	<input type="checkbox"/>
If YES to 6.a., please describe.		
b. If YES, does the applicant provide information concerning their mental health status at the time of application?	<input type="checkbox"/>	<input type="checkbox"/>
c. If YES, is there any check or validation of the information provided by the applicant?	<input type="checkbox"/>	<input type="checkbox"/>

If YES to 6.c., please describe.

--

d. If YES, please provide your state statute reference.

--

e. If NO, does your state have any process for prohibiting the use or possession of firearms based on a voluntary mental health admission to a treatment facility?

✓	
---	--

If YES to 6.e., please describe.

Voluntary admissions disqualified for 6 months.

7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the consideration of mental health and the use or possession of firearms?

	✓
--	---

a. If YES, please describe.

--

8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses the concern of mental health treatment and the possession of firearms?

	✓
--	---

a. If YES, what is the effective date?

--

b. If YES, please provide a copy of the legislative language.

Person completing the survey:

Lt Seth Mancini

Name

CT State Police

Agency

Lieutenant

Title

Middletown CT 06457

City, State, Zip code

seth.mancini@ct.gov

Email

860-685-8494

Telephone

YES NO

If YES to 6.c., please describe.

d. If YES, please provide your state statute reference.

e. If NO, does your state have any process for prohibiting the use or possession of firearms based on a voluntary mental health admission to a treatment facility?

☐ ☒

If YES to 6.e., please describe.

7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the consideration of mental health and the use or possession of firearms?

☐ ☐

a. If YES, please describe.

WE AS INVESTIGATORS CALL THEIR PHYSICIAN AND SEE IF THEY WILL GIVE INFO VOLUNTARILY.

8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses the concern of mental health treatment and the possession of firearms?

☐ ☒

a. If YES, what is the effective date?

b. If YES, please provide a copy of the legislative language.

Person completing the survey:

JAMES DITOMASSO

Name

INVESTIGATOR

Title

JAMES.DITOMASSO@STATE.DE.US

Email

DEPARTMENT OF JUSTICE

Agency

WILM. DE. 19801

City, State, Zip code

302-577-5037

Telephone



ILLINOIS STATE POLICE
Concealed Carry Licensing Annual Survey

1. Does your state issue a Concealed Carry License?

YES	NO
✓	

a. If YES, for what length of time is the license issued?

*FIRST TIME - 3 YRS THEN
RENEWED EVERY 5 YRS.*

b. At what age can an individual apply for a Concealed Carry License?

18

2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License?

✓	
---	--

a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit?

✓	
---	--

3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)?

✓	
---	--

4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g)(4))?

✓	
---	--

5. Does your state report adjudicated mentally defective/committed persons to the NICS Index?

✓	
---	--

a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g)(4).

--

b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit?

✓	
---	--

6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years?

	✓
--	---

a. If YES, are mental health admissions reported to your agency by an entity other than the applicant?

--	--

If YES to 6.a., please describe.

--

b. If YES, does the applicant provide information concerning their mental health status at the time of application?

	✓
--	---

c. If YES, is there any check or validation of the information provided by the applicant?

--	--



ILLINOIS STATE POLICE
Concealed Carry Licensing Annual Survey

YES	NO
<input checked="" type="checkbox"/>	<input type="checkbox"/>

1. Does your state issue a Concealed Carry License?

a. If YES, for what length of time is the license issued?

5 years

b. At what age can an individual apply for a Concealed Carry License?

21 (unless in armed forces the 18)

2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g)(4))?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

5. Does your state report adjudicated mentally defective/committed persons to the NICS Index?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g)(4).

GCIC records include whether a person has been involuntarily hospitalized and whether someone has been adjudicated mentally incompetent. OCGA 35-3-34 is attached hereto.

"The Georgia Crime Information Center shall be authorized to provide... involuntary hospitalization records information to the [FBI] in conjunction with the [NCIS]." OCGA 35-3-34(b). The GCIC shall

b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

a. If YES, are mental health admissions reported to your agency by an entity other than the applicant?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

If YES to 6.a., please describe.

See OCGA 35-3-34 (e) attached.

b. If YES, does the applicant provide information concerning their mental health status at the time of application?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

c. If YES, is there any check or validation of the information provided by the applicant?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

*Georgia prohibits a person from wearing a firearm on their person or possession

The judge of the probate court may require any applicant to sign a waiver authorizing any mental hospital or treatment center to inform the judge whether or not the applicant had been an inpatient in any such facility.

d. If YES, please provide your state statute reference.

OCGA 16-11-129(b)(3) attached

e. If NO, does your state have any process for prohibiting the use or possession of firearms based on a voluntary mental health admission to a treatment facility?

☐ ☒

If YES to 6.e., please describe.

7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the consideration of mental health and the use or possession of firearms?

☒ ☐

a. If YES, please describe.

Please see OCGA 16-11-129(b)-(b.1) (attached)

8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses the concern of mental health treatment and the possession of firearms?

☐ ☒

a. If YES, what is the effective date?

b. If YES, please provide a copy of the legislative language.

Person completing the survey:

Rebecca Dobras

Name

Assistant Attorney General

Title

rdobras@law.ga.gov

Email

Georgia Department of Law

Agency

40 Capitol Sq SW Atlanta GA

City, State, Zip code

30334

Telephone



GEORGIA DEPARTMENT OF LAW

40 CAPITOL SQUARE SW
ATLANTA, GA 30334-1300

SAMUEL S. OLENS
ATTORNEY GENERAL

RECEIVED

OCT 27 2015

Firearms Services Bureau
Illinois State Police

www.law.ga.gov
(404) 656-3300

Writer's Direct Dial:
404-656-0749
Fax 404-463-8864
Email:
rdobras@law.ga.gov

October 22, 2015

Leo P. Schmitz
Director
Illinois State Police
801 South Seventh St.
Suite 1100-S
Springfield, IL 62703

Re: Georgia Weapons Carry

Dear Mr. Schmitz,

Enclosed please find Georgia's response to your Concealed Carry Licensing Annual Survey. Please do not hesitate to contact me if you have any questions.

Sincerely,

A rectangular area of the document has been redacted with a grey box, obscuring the signature of Rebecca J. Dobras.

Rebecca J. Dobras
Assistant Attorney General

RD

Lexis Advance®

Research

Document: O.C.G.A. § 16-11-129

O.C.G.A. § 16-11-129**Copy Citation**

Current Through the 2015 Regular Session

**Official Code of Georgia Annotated TITLE 16. CRIMES AND OFFENSES CHAPTER
11. OFFENSES AGAINST PUBLIC ORDER AND SAFETY ARTICLE 4. DANGEROUS
INSTRUMENTALITIES AND PRACTICES PART 3. CARRYING AND POSSESSION OF
FIREARMS**

§ 16-11-129. Weapons carry license; temporary renewal permit; mandamus; verification of license

(a) Application for weapons carry license or renewal license; term. The judge of the probate court of each county shall, on application under oath, on payment of a fee of \$30.00, and on investigation of applicant pursuant to subsections (b) and (d) of this Code section, issue a weapons carry license or renewal license valid for a period of five years to any person whose domicile is in that county or who is on active duty with the United States armed forces and who is not a domiciliary of this state but who either resides in that county or on a military reservation located in whole or in part in that county at the time of such application. Such license or renewal license shall authorize that person to carry any weapon in any county of this state notwithstanding any change in that person's county of residence or state of domicile. Applicants shall submit the application for a weapons carry license or renewal license to the judge of the probate court on forms prescribed and furnished free of charge to persons wishing to apply for the license or renewal license. An application shall be considered to be for a renewal license if the applicant has a weapons carry license or renewal license with 90 or fewer days remaining before the expiration of such weapons carry license or renewal license or 30 or fewer days since the expiration of such weapons carry license or renewal license regardless of the county of

issuance of the applicant's expired or expiring weapons carry license or renewal license. An applicant who is not a United States citizen shall provide sufficient personal identifying data, including without limitation his or her place of birth and United States issued alien or admission number, as the Georgia Bureau of Investigation may prescribe by rule or regulation. An applicant who is in nonimmigrant status shall provide proof of his or her qualifications for an exception to the federal firearm prohibition pursuant to 18 U.S.C. Section 922(y). Forms shall be designed to elicit information from the applicant pertinent to his or her eligibility under this Code section, including citizenship, but shall not require data which is nonpertinent or irrelevant, such as serial numbers or other identification capable of being used as a de facto registration of firearms owned by the applicant. The Department of Public Safety shall furnish application forms and license forms required by this Code section. The forms shall be furnished to each judge of each probate court within this state at no cost.

(b) Licensing exceptions.

(1) As used in this subsection, the term:

(A) "Armed forces" means active duty or a reserve component of the United States Army, United States Navy, United States Marine Corps, United States Coast Guard, United States Air Force, United States National Guard, Georgia Army National Guard, or Georgia Air National Guard.

(B) "Controlled substance" means any drug, substance, or immediate precursor included in the definition of controlled substances in paragraph (4) of Code Section 16-13-21.

(C) "Convicted" means an adjudication of guilt. Such term shall not include an order of discharge and exoneration pursuant to Article 3 of Chapter 8 of Title 42.

(D) "Dangerous drug" means any drug defined as such in Code Section 16-13-71.

(2) No weapons carry license shall be issued to:

(A) Any person younger than 21 years of age unless he or she:

(i) Is at least 18 years of age;

(ii) Provides proof that he or she has completed basic training in the armed forces of the United States; and

(iii) Provides proof that he or she is actively serving in the armed forces of the United States or has been honorably discharged from such service;

(B) Any person who has been convicted of a felony by a court of this state or any other state;

by a court of the United States, including its territories, possessions, and dominions; or by a court of any foreign nation and has not been pardoned for such felony by the President of the United States, the State Board of Pardons and Paroles, or the person or agency empowered to grant pardons under the constitution or laws of such state or nation;

(C) Any person against whom proceedings are pending for any felony;

(D) Any person who is a fugitive from justice;

(E) Any person who is prohibited from possessing or shipping a firearm in interstate commerce pursuant to subsections (g) and (n) of 18 U.S.C. Section 922;

(F) Any person who has been convicted of an offense arising out of the unlawful manufacture or distribution of a controlled substance or other dangerous drug;

(G) Any person who has had his or her weapons carry license revoked pursuant to subsection (e) of this Code section within three years of the date of his or her application;

(H) Any person who has been convicted of any of the following:

(i) Carrying a weapon without a weapons carry license in violation of Code Section 16-11-126; or

(ii) Carrying a weapon or long gun in an unauthorized location in violation of Code Section 16-11-127

and has not been free of all restraint or supervision in connection therewith and free of any other conviction for at least five years immediately preceding the date of the application;

(I) Any person who has been convicted of any misdemeanor involving the use or possession of a controlled substance and has not been free of all restraint or supervision in connection therewith or free of:

(i) A second conviction of any misdemeanor involving the use or possession of a controlled substance; or

(ii) Any conviction under subparagraphs (E) through (G) of this paragraph

for at least five years immediately preceding the date of the application;

(J) Except as provided for in subsection (b.1) of this Code section, any person who has been hospitalized as an inpatient in any mental hospital or alcohol or drug treatment center within the five years immediately preceding the application. The judge of the probate court may require any applicant to sign a waiver authorizing any mental hospital or treatment center to inform the

judge whether or not the applicant has been an inpatient in any such facility in the last five years and authorizing the superintendent of such facility to make to the judge a recommendation regarding whether the applicant is a threat to the safety of others and whether a license to carry a weapon should be issued. When such a waiver is required by the judge, the applicant shall pay a fee of \$3.00 for reimbursement of the cost of making such a report by the mental health hospital, alcohol or drug treatment center, or the Department of Behavioral Health and Developmental Disabilities, which the judge shall remit to the hospital, center, or department. The judge shall keep any such hospitalization or treatment information confidential. It shall be at the discretion of the judge, considering the circumstances surrounding the hospitalization and the recommendation of the superintendent of the hospital or treatment center where the individual was a patient, to issue the weapons carry license or renewal license;

(K) Except as provided for in subsection (b.1) of this Code section, any person who has been adjudicated mentally incompetent to stand trial; or

(L) Except as provided for in subsection (b.1) of this Code section, any person who has been adjudicated not guilty by reason of insanity at the time of the crime pursuant to Part 2 of Article 6 of Chapter 7 of Title 17.

(b.1) Petitions for relief from certain licensing exceptions.

(1) Persons provided for under subparagraphs (b)(2)(J), (b)(2)(K), and (b)(2)(L) of this Code section may petition the court in which such adjudication, hospitalization, or treatment proceedings, if any, under Chapter 3 or 7 of Title 37 occurred for relief. A copy of such petition for relief shall be served as notice upon the opposing civil party or the prosecuting attorney for the state, as the case may be, or their successors, who appeared in the underlying case. Within 30 days of the receipt of such petition, such court shall hold a hearing on such petition for relief. Such prosecuting attorney for the state may represent the interests of the state at such hearing.

(2) At the hearing provided for under paragraph (1) of this subsection, the court shall receive and consider evidence in a closed proceeding concerning:

(A) The circumstances which caused the person to be subject to subparagraph (b)(2)(J), (b)(2)(K), or (b)(2)(L) of this Code section;

(B) The person's mental health and criminal history records, if any. The judge of such court may require any such person to sign a waiver authorizing the superintendent of any mental hospital or treatment center to make to the judge a recommendation regarding whether such person is a threat to the safety of others. When such a waiver is required by the judge, the applicant shall pay a fee of \$3.00 for reimbursement of the cost of making such a report by the

mental health hospital, alcohol or drug treatment center, or the Department of Behavioral Health and Developmental Disabilities, which the judge shall remit to the hospital, center, or department;

(C) The person's reputation which shall be established through character witness statements, testimony, or other character evidence; and

(D) Changes in the person's condition or circumstances since such adjudication, hospitalization, or treatment proceedings under Chapter 3 or 7 of Title 37.

The judge shall issue an order of his or her decision no later than 30 days after the hearing.

(3) The court shall grant the petition for relief if such court finds by a preponderance of the evidence that the person will not likely act in a manner dangerous to public safety in carrying a weapon and that granting the relief will not be contrary to the public interest. A record shall be kept of the hearing; provided, however, that such records shall remain confidential and be disclosed only to a court or to the parties in the event of an appeal. Any appeal of the court's ruling on the petition for relief shall be de novo review.

(4) If the court grants such person's petition for relief, the applicable subparagraph (b)(2)(J), (b)(2)(K), or (b)(2)(L) of this Code section shall not apply to such person in his or her application for a weapons carry license or renewal; provided, however, that such person shall comply with all other requirements for the issuance of a weapons carry license or renewal license. The clerk of such court shall report such order to the Georgia Crime Information Center immediately, but in no case later than ten business days after the date of such order.

(5) A person may petition for relief under this subsection not more than once every two years. In the case of a person who has been hospitalized as an inpatient, such person shall not petition for relief prior to being discharged from such treatment.

(c) Fingerprinting. Following completion of the application for a weapons carry license, the judge of the probate court shall require the applicant to proceed to an appropriate law enforcement agency in the county or to any vendor approved by the Georgia Bureau of Investigation for fingerprint submission services with the completed application so that such agency or vendor can capture the fingerprints of the applicant. The law enforcement agency shall be entitled to a fee of \$5.00 from the applicant for its services in connection with fingerprinting and processing of an application. Fingerprinting shall not be required for applicants seeking temporary renewal licenses or renewal licenses.

(d) Investigation of applicant; issuance of weapons carry license; renewal.

(1) (A) For weapons carry license applications, the judge of the probate court shall within five business days following the receipt of the application or request direct the law enforcement agency to request a fingerprint based criminal history records check from the Georgia Crime Information Center and Federal Bureau of Investigation for purposes of determining the suitability of the applicant and return an appropriate report to the judge of the probate court. Fingerprints shall be in such form and of such quality as prescribed by the Georgia Crime Information Center and under standards adopted by the Federal Bureau of Investigation. The Georgia Bureau of Investigation may charge such fee as is necessary to cover the cost of the records search.

(B) For requests for license renewals, the presentation of a weapons carry license issued by any probate judge in this state shall be evidence to the judge of the probate court to whom a request for license renewal is made that the fingerprints of the weapons carry license holder are on file with the judge of the probate court who issued the weapons carry license, and the judge of the probate court to whom a request for license renewal is made shall, within five business days following the receipt of the request, direct the law enforcement agency to request a nonfingerprint based criminal history records check from the Georgia Crime Information Center and Federal Bureau of Investigation for purposes of determining the suitability of the applicant and return an appropriate report to the judge of the probate court to whom a request for license renewal is made.

(2) For both weapons carry license applications and requests for license renewals, the judge of the probate court shall within five business days following the receipt of the application or request also direct the law enforcement agency, in the same manner as provided for in subparagraph (d)(1)(B) of this subsection, to conduct a background check using the Federal Bureau of Investigation's National Instant Criminal Background Check System and return an appropriate report to the probate judge.

(3) When a person who is not a United States citizen applies for a weapons carry license or renewal of a license under this Code section, the judge of the probate court shall direct the law enforcement agency to conduct a search of the records maintained by United States Immigration and Customs Enforcement and return an appropriate report to the probate judge. As a condition to the issuance of a license or the renewal of a license, an applicant who is in nonimmigrant status shall provide proof of his or her qualifications for an exception to the federal firearm prohibition pursuant to 18 U.S.C. Section 922(y).

(4) The law enforcement agency shall report to the judge of the probate court within 30 days, by telephone and in writing, of any findings relating to the applicant which may bear on his or her eligibility for a weapons carry license or renewal license under the terms of this Code

section. When no derogatory information is found on the applicant bearing on his or her eligibility to obtain a license or renewal license, a report shall not be required. The law enforcement agency shall return the application directly to the judge of the probate court within such time period. Not later than ten days after the judge of the probate court receives the report from the law enforcement agency concerning the suitability of the applicant for a license, the judge of the probate court shall issue such applicant a license or renewal license to carry any weapon unless facts establishing ineligibility have been reported or unless the judge determines such applicant has not met all the qualifications, is not of good moral character, or has failed to comply with any of the requirements contained in this Code section. The judge of the probate court shall date stamp the report from the law enforcement agency to show the date on which the report was received by the judge of the probate court.

(e) Revocation, loss, or damage to license.

(1) If, at any time during the period for which the weapons carry license was issued, the judge of the probate court of the county in which the license was issued shall learn or have brought to his or her attention in any manner any reasonable ground to believe the licensee is not eligible to retain the license, the judge may, after notice and hearing, revoke the license of the person upon a finding that such person is not eligible for a weapons carry license pursuant to subsection (b) of this Code section or an adjudication of falsification of application, mental incompetency, or chronic alcohol or narcotic usage. The judge of the probate court shall report such revocation to the Georgia Crime Information Center immediately but in no case later than ten days after such revocation. It shall be unlawful for any person to possess a license which has been revoked pursuant to this paragraph, and any person found in possession of any such revoked license, except in the performance of his or her official duties, shall be guilty of a misdemeanor.

(2) If a person is convicted of any crime or involved in any matter which would make the maintenance of a weapons carry license by such person unlawful pursuant to subsection (b) of this Code section, the judge of the superior court or state court hearing such case or presiding over such matter shall inquire whether such person is the holder of a weapons carry license. If such person is the holder of a weapons carry license, then the judge of the superior court or state court shall inquire of such person the county of the probate court which issued such weapons carry license, or if such person has ever had his or her weapons carry license renewed, then of the county of the probate court which most recently issued such person a renewal license. The judge of the superior court or state court shall notify the judge of the probate court of such county of the matter which makes the maintenance of a weapons carry license by such person to be unlawful pursuant to subsection (b) of this Code section. The Council of Superior Court Judges of Georgia and The Council of State Court Judges of Georgia shall provide by rule

for the procedures which judges of the superior court and the judges of the state courts, respectively, are to follow for the purposes of this paragraph.

(3) Loss of any license issued in accordance with this Code section or damage to the license in any manner which shall render it illegible shall be reported to the judge of the probate court of the county in which it was issued within 48 hours of the time the loss or damage becomes known to the license holder. The judge of the probate court shall thereupon issue a replacement for and shall take custody of and destroy a damaged license; and in any case in which a license has been lost, he or she shall issue a cancellation order. The judge shall charge the fee specified in subsection (k) of Code Section 15-9-60 for such services.

(f)

(1) **Weapons carry license specifications.** Weapons carry licenses issued prior to January 1, 2012, shall be in the format specified by the former provisions of this paragraph as they existed on June 30, 2013.

(2) On and after January 1, 2012, newly issued or renewal weapons carry licenses shall incorporate overt and covert security features which shall be blended with the personal data printed on the license to form a significant barrier to imitation, replication, and duplication. There shall be a minimum of three different ultraviolet colors used to enhance the security of the license incorporating variable data, color shifting characteristics, and front edge only perimeter visibility. The weapons carry license shall have a color photograph viewable under ambient light on both the front and back of the license. The license shall incorporate custom optical variable devices featuring the great seal of the State of Georgia as well as matching demetalized optical variable devices viewable under ambient light from the front and back of the license incorporating microtext and unique alphanumeric serialization specific to the license holder. The license shall be of similar material, size, and thickness of a credit card and have a holographic laminate to secure and protect the license for the duration of the license period.

(3) Using the physical characteristics of the license set forth in paragraph (2) of this subsection, The Council of Probate Court Judges of Georgia shall create specifications for the probate courts so that all weapons carry licenses in this state shall be uniform and so that probate courts can petition the Department of Administrative Services to purchase the equipment and supplies necessary for producing such licenses. The department shall follow the competitive bidding procedure set forth in Code Section 50-5-102.

(g) **Alteration or counterfeiting of license; penalty.** A person who deliberately alters or counterfeits a weapons carry license or who possesses an altered or counterfeit weapons carry license with the intent to misrepresent any information contained in such license shall be guilty

of a felony and, upon conviction thereof, shall be punished by imprisonment for a period of not less than one nor more than five years.

(h) Licenses for former law enforcement officers. Except as otherwise provided in Code Section 16-11-130, any person who has served as a law enforcement officer for at least ten of the 12 years immediately preceding the retirement of such person as a law enforcement officer shall be entitled to be issued a weapons carry license as provided for in this Code section without the payment of any of the fees provided for in this Code section. Such person shall comply with all the other provisions of this Code section relative to the issuance of such licenses. As used in this subsection, the term "law enforcement officer" means any peace officer who is employed by the United States government or by the State of Georgia or any political subdivision thereof and who is required by the terms of his or her employment, whether by election or appointment, to give his or her full time to the preservation of public order or the protection of life and property or the prevention of crime. Such term shall include conservation rangers.

(i) Temporary renewal licenses.

(1) Any person who holds a weapons carry license under this Code section may, at the time he or she applies for a renewal of the license, also apply for a temporary renewal license if less than 90 days remain before expiration of the license he or she then holds or if the previous license has expired within the last 30 days.

(2) Unless the judge of the probate court knows or is made aware of any fact which would make the applicant ineligible for a five-year renewal license, the judge shall at the time of application issue a temporary renewal license to the applicant.

(3) Such a temporary renewal license shall be in the form of a paper receipt indicating the date on which the court received the renewal application and shall show the name, address, sex, age, and race of the applicant and that the temporary renewal license expires 90 days from the date of issue.

(4) During its period of validity the temporary renewal license, if carried on or about the holder's person together with the holder's previous license, shall be valid in the same manner and for the same purposes as a five-year license.

(5) A \$1.00 fee shall be charged by the probate court for issuance of a temporary renewal license.

(6) A temporary renewal license may be revoked in the same manner as a five-year license.

(j) Applicant may seek relief. When an eligible applicant fails to receive a license, temporary renewal license, or renewal license within the time period required by this Code section and the application or request has been properly filed, the applicant may bring an action in mandamus or other legal proceeding in order to obtain a license, temporary renewal license, or renewal license. When an applicant is otherwise denied a license, temporary renewal license, or renewal license and contends that he or she is qualified to be issued a license, temporary renewal license, or renewal license, the applicant may bring an action in mandamus or other legal proceeding in order to obtain such license. Additionally, the applicant may request a hearing before the judge of the probate court relative to the applicant's fitness to be issued such license. Upon the issuance of a denial, the judge of the probate court shall inform the applicant of his or her rights pursuant to this subsection. If such applicant is the prevailing party, he or she shall be entitled to recover his or her costs in such action, including reasonable attorney's fees.

(k) Data base prohibition. A person or entity shall not create or maintain a multijurisdictional data base of information regarding persons issued weapons carry licenses.

(l) Verification of license. The judge of a probate court or his or her designee shall be authorized to verify the legitimacy and validity of a weapons carry license of a license holder pursuant to a subpoena or court order, for public safety purposes to law enforcement agencies pursuant to paragraph (40) of subsection (a) of Code Section 50-18-72, and for licensing to a judge of a probate court or his or her designee pursuant to paragraph (40) of subsection (a) of Code Section 50-18-72; provided, however, that the judge of a probate court or his or her designee shall not be authorized to provide any further information regarding license holders.

History

Ga. L. 1910, p. 134, §§ 2, 3; Code 1933, §§ 26-5104, 26-5105; Ga. L. 1960, p. 938, § 1; Code 1933, § 26-2904, enacted by Ga. L. 1968, p. 1249, § 1; Ga. L. 1976, p. 1430, § 4; Ga. L. 1978, p. 1607, §§ 1, 2; Ga. L. 1981, p. 946, § 1; Ga. L. 1981, p. 1325, § 1; Ga. L. 1983, p. 1431, § 1; Ga. L. 1984, p. 935, § 1; Ga. L. 1984, p. 1388, § 1; Ga. L. 1986, p. 305, § 1; Ga. L. 1986, p. 481, §§ 1, 2; Ga. L. 1990, p. 138, § 1; Ga. L. 1990, p. 2012, § 1; Ga. L. 1992, p. 6, § 16; Ga. L. 1994, p. 351, § 1; Ga. L. 1996, p. 108, §§ 3-5; Ga. L. 1997, p. 514, § 2; Ga. L. 2002, p. 1011, § 2; Ga. L. 2006, p. 264, § 1/HB 1032; Ga. L. 2008, p. 1199, § 6/HB 89; Ga. L. 2009, p. 453, § 3-2/HB 228; Ga. L. 2010, p. 963, § 1-7/SB 308; Ga. L. 2011, p. 752, § 16/HB 142; Ga. L. 2014, p. 599, § 1-7/HB 60; Ga. L. 2015, p. 805, § 6/HB 492.

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Current Through the 2015 Regular Session

Official Code of Georgia Annotated TITLE 35. LAW ENFORCEMENT OFFICERS AND AGENCIES CHAPTER 3. GEORGIA BUREAU OF INVESTIGATION ARTICLE 2. GEORGIA CRIME INFORMATION CENTER

§ 35-3-34. Disclosure and dissemination of criminal records to private persons and businesses; resulting responsibility and liability of issuing center; provision of certain information to the FBI in conjunction with the National Instant Criminal Background Check System

(a) The center shall be authorized to:

(1) Make criminal history records maintained by the center available to private persons and businesses under the following conditions:

(A) Private individuals and businesses requesting criminal history records shall, at the time of the request, provide the fingerprints of the person whose records are requested or provide a signed consent of the person whose records are requested on a form prescribed by the center which shall include such person's full name, address, social security number, and date of birth;

(B) The center may not provide records of arrests, charges, and sentences for crimes relating to first offenders pursuant to Article 3 of Chapter 8 of Title 42 in cases where offenders have been exonerated and discharged without court adjudications of guilt, except as specifically authorized by Code Section 35-3-34.1 or other law;

(C) When the identifying information provided is sufficient to identify persons whose records

are requested electronically, the center may disseminate electronically criminal history records of in-state felony convictions, pleas, and sentences without:

(i) Fingerprint comparison; or

(ii) Consent of the person whose records are requested; and

(D) The center shall not provide records of arrests, charges, or dispositions when access has been restricted pursuant to Code Section 35-3-37; or

(2) Make criminal history records of the defendant or witnesses in a criminal action available to counsel for the defendant upon receipt of a written request from the defendant's counsel under the following conditions:

(A) Such request shall contain the style of the case and the name and identifying information for each person whose records are requested. Such request shall be submitted to the center;

(B) In cases where the court has determined the defendant to be indigent, any fees authorized by law shall be waived; and

(C) Disclosure of criminal history information to the defendant's counsel as provided in this paragraph shall be solely in such counsel's capacity as an officer of the court. Any use of such information in a manner not authorized by law or the court in which such action is pending where the records were disclosed shall constitute a violation of Code Section 35-3-38; and

(3) Charge fees for disseminating records pursuant to this Code section which will raise an amount of revenue which approximates, as nearly as practicable, the direct and indirect costs to the state for providing such disseminations.

(b) In the event that an employment decision is made adverse to a person whose record was obtained pursuant to this Code section, the person will be informed by the business or person making the adverse employment decision of all information pertinent to that decision. This disclosure shall include information that a record was obtained from the center, the specific contents of the record, and the effect the record had upon the decision. Failure to provide all such information to the person subject to the adverse decision shall be a misdemeanor.

(c) Neither the center, its employees, nor any agency or employee of the state shall be responsible for the accuracy of information nor have any liability for defamation, invasion of privacy, negligence, or any other claim in connection with the dissemination pursuant to this Code section and shall be immune from suit based upon any such claims.

(d) Local criminal justice agencies may disseminate criminal history records, without fingerprint

comparison or prior contact with the center, to private individuals and businesses under the same conditions as set forth in paragraph (1) of subsection (a) of this Code section and may charge fees as needed to reimburse such agencies for their direct and indirect costs related to the providing of such disseminations.

(d.1) Reserved.

(d.2) When identifying information provided is sufficient to identify persons whose records are requested, local criminal justice agencies may disseminate criminal history records of in-state felony convictions, pleas, and sentences without:

- (1)** Fingerprint comparison;
- (2)** Prior contact with the center; or
- (3)** Consent of the person whose records are requested.

Such information may be disseminated to private individuals and businesses under the conditions specified in subparagraph (a)(1)(B) of this Code section upon payment of the fee for the request and when the request is made upon a form prescribed by the center. Such agencies may charge and retain fees as needed to reimburse such agencies for the direct and indirect costs of providing such information and shall have the same immunity therefor as provided in subsection (c) of this Code section.

(d.3) No fee charged pursuant to this Code section may exceed \$20.00 per person whose criminal history record is requested or be charged to any person or entity authorized prior to January 1, 1995, to obtain information pursuant to this Code section without payment of such fee.

(d.4) The center shall place a high priority on inquiries from any nuclear power facility requesting a criminal history and shall respond to such requests as expeditiously as possible, but in no event shall a response be made more than two business days following receipt of the request.

(e)

(1) The Georgia Crime Information Center shall be authorized to provide criminal history records, wanted person records, and involuntary hospitalization records information to the Federal Bureau of Investigation in conjunction with the National Instant Criminal Background Check System in accordance with the federal Brady Handgun Violence Prevention Act, 18 U.S.C. Section 921, et seq.

(2) The records of the Georgia Crime Information Center shall include information as to

whether a person has been involuntarily hospitalized. Notwithstanding any other provisions of law and in order to carry out the provisions of this Code section and Code Section 16-11-172, the Georgia Crime Information Center shall be provided such information and no other mental health information from the involuntary hospitalization records of the probate courts concerning persons involuntarily hospitalized after March 22, 1995, in a manner agreed upon by the Probate Judges Training Council and the Georgia Bureau of Investigation to preserve the confidentiality of patients' rights in all other respects. Further, notwithstanding any other provisions of law and in order to carry out the provisions of this Code section and Code Section 16-11-172, the center shall be provided information as to whether a person has been adjudicated mentally incompetent to stand trial or not guilty by reason of insanity at the time of the crime, has been involuntarily hospitalized, or both from the records of the clerks of the superior courts concerning persons involuntarily hospitalized after March 22, 1995, in a manner agreed upon by The Council of Superior Court Clerks of Georgia and the Georgia Bureau of Investigation to preserve the confidentiality of patients' rights in all other respects. After five years have elapsed from the date that a person's involuntary hospitalization information has been received by the Georgia Crime Information Center, the center shall purge its records of such information as soon as practicable and in any event purge such records within 30 days after the expiration of such five-year period.

(3) (A) The records of the center shall include information as to whether a person has been involuntarily hospitalized. In order to carry out the provisions of Code Section 16-11-129, the center shall be provided such information and no other mental health information from the records of the probate and superior courts ordering persons to be involuntarily hospitalized. With respect to probate court records, such information shall be provided in a manner agreed upon by the Probate Judges Training Council and the bureau. With respect to superior court records, such information shall be provided in a manner agreed upon by The Council of Superior Court Clerks of Georgia and the bureau. Such records shall be provided in a manner so as to preserve the confidentiality of patients' rights in all other respects.

(B) In order to carry out the provisions of Code Section 16-11-129, the center shall be provided information as to whether a person has been adjudicated mentally incompetent to stand trial or has been found not guilty by reason of insanity at the time of the crime. The clerk of court shall report such information to the center immediately but in no case later than ten days after such adjudication of mental incompetence or finding of not guilty by reason of insanity.

(f) The council is empowered to adopt rules, regulations, and forms necessary to implement this Code section. The council shall promulgate regulations to ensure the identity,

confidentiality, and security of all records and data provided in accordance with this Code section.

History

Ga. L. 1973, p. 1301, § 3; Ga. L. 1976, p. 1401, § 2; Ga. L. 1977, p. 1243, § 1; Ga. L. 1978, p. 1981, § 1; Ga. L. 1982, p. 3, § 35; Ga. L. 1988, p. 203, § 1; Ga. L. 1989, p. 1080, § 2; Ga. L. 1994, p. 1895, § 12; Ga. L. 1995, p. 139, § 3; Ga. L. 1995, p. 633, §§ 1, 2; Ga. L. 1996, p. 6, § 35; Ga. L. 2000, p. 1206, § 1; Ga. L. 2003, p. 840, § 1; Ga. L. 2005, p. 613, § 2/SB 175; Ga. L. 2006, p. 72, § 35/SB 465; Ga. L. 2006, p. 812, § 4/SB 532; Ga. L. 2012, p. 899, § 6-1/HB 1176; Ga. L. 2014, p. 599, § 1-13/HB 60.

► Annotations

OFFICIAL CODE OF GEORGIA ANNOTATED

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ILLINOIS STATE POLICE
Concealed Carry Licensing Annual Survey

1. Does your state issue a Concealed Carry License?

YES	NO
X	

a. If YES, for what length of time is the license issued?

1 Year

b. At what age can an individual apply for a Concealed Carry License?

21

2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License?

X	
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a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit?

X	
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3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)?

	X
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4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g)(4))?

X	
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5. Does your state report adjudicated mentally defective/committed persons to the NICS Index?

	X
--	---

a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g)(4).

b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit?

--	--

6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years?

X	
---	--

a. If YES, are mental health admissions reported to your agency by an entity other than the applicant?

X	
---	--

If YES to 6.a., please describe.

Attending physician reporting pursuant to Mental Health Waiver signed by the applicant.

b. If YES, does the applicant provide information concerning their mental health status at the time of application?

X	
---	--

c. If YES, is there any check or validation of the information provided by the applicant?

X	
---	--

If YES to 6.c., please describe.

The applicant signs a Medical Information Waiver pursuant to Hawaii state law (HRS Chapter 134) authorizing access to any and all records having a bearing on applicant's mental health.

d. If YES, please provide your state statute reference.

HRS 134-2, 134-7 and 134 -17

e. If NO, does your state have any process for prohibiting the use or possession of firearms based on a voluntary mental health admission to a treatment facility?

--	--

If YES to 6.e., please describe.

--

7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the consideration of mental health and the use or possession of firearms?

--	--

a. If YES, please describe.

--

8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses the concern of mental health treatment and the possession of firearms?

	X
--	---

a. If YES, what is the effective date?

--

b. If YES, please provide a copy of the legislative language.

Person completing the survey:

Alan Vegas

Robert Jaeger

Name

Honolulu Police Department

Agency

Lieutenant

Sergeant

Title

Honolulu, Hawaii 96813

City, State, Zip code

avegas1@honolulu.gov rjaeger@honolulu.gov

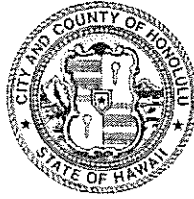
Email

(808)-723-3192

Telephone

CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET • HONOLULU, HAWAII 96813
TELEPHONE (808) 529-3111 • INTERNET www.honolulu.gov



KIRK CALDWELL
MAYOR

RECEIVED

OCT 27 2015

Firearms Services Bureau
Illinois State Police
LOUIS M. KEALOHA
CHIEF

MARIE A. McCauley
CARY OKIMOTO
DEPUTY CHIEFS

OUR REFERENCE RR-DNK

October 15, 2015

Mr. Leo P. Schmitz, Director
Illinois State Police
801 South Seventh Street, Suite 1100-S
Springfield, Illinois 62703

Dear Mr. Schmitz:

This is in response to your letter of September 28, 2015, requesting the Honolulu Police Department's (HPD) participation in a Concealed Carry Licensing Annual Survey to determine if Hawaii citizens may apply for a nonresident Illinois Concealed Carry License.

Enclosed are the completed survey and copies of the HPD Medical Information Waiver (HPD-89 form) and Firearm Application Questionnaire (HPD-131B form). According to the Hawaii Revised Statutes, the Chief of Police (in an exceptional case) may grant a license to carry a pistol or revolver concealed on the person within the county where the license is granted if the applicant shows reason to fear injury to his or her person or property.

Should you have any questions, please call Sergeant Robert Jaeger of our Firearms Unit, Records and Identification Division, at (808) 723-3192.

Sincerely,

A black rectangular redaction box covers the signature of Louis M. Kealoa.

LOUIS M. KEALOHA
Chief of Police

Enclosures

PERMIT NO.

OUT OF STATE

YES ☐NO ☐**MEDICAL INFORMATION WAIVER****Chapter 134, Hawaii Revised Statutes**

I, _____, do freely and in compliance with sections 134-2 and 134-7
(PLEASE PRINT NAME)
of the Hawaii Revised Statutes, authorize the Chief of Police in the City and County of Honolulu access
to any and all records which have a bearing on my mental health for the strict purpose of determining
my qualification to acquire, own, possess, or have under my control, a firearm.

Name of physician/facility: _____

DOCTOR'S ADDRESS_____
DOCTOR'S TELEPHONE NO._____
DATE_____
SIGNATURE OF APPLICANT_____
WITNESS_____
DATE_____
TIME

HPD-89 (R-12/96)

FIREARM APPLICATION QUESTIONNAIRE

Chapter 134, Hawaii Revised Statutes

PERMIT NO. _____

OUT OF STATE YES ☐ NO ☐YES
(please initial) NO

- | | | | |
|----|--|----------------------|----------------------|
| 1. | Are you a fugitive from justice? | <input type="text"/> | <input type="text"/> |
| 2. | Are you under indictment for, or have waived indictment for, or have been bound over to circuit court for, or have been convicted in this state or elsewhere for having committed a felony, or any crime of violence, or the illegal sale of any drug? | <input type="text"/> | <input type="text"/> |
| 3. | Have you ever been under treatment or counseling for addiction to, abuse of, or dependence upon any dangerous, harmful, or detrimental drug, intoxicating compound, or intoxicating liquor? | <input type="text"/> | <input type="text"/> |
| 4. | Have you ever been admitted to and/or detained at a psychiatric facility? | <input type="text"/> | <input type="text"/> |
| 5. | Have you ever been acquitted of a crime on the grounds of mental disease, disorder, or defect? | <input type="text"/> | <input type="text"/> |
| 6. | Have you ever been diagnosed as having a significant behavioral, emotional, or mental disorder? | <input type="text"/> | <input type="text"/> |
| 7. | Have you ever been under treatment for an organic brain syndrome? | <input type="text"/> | <input type="text"/> |
| 8. | Are you presently restrained pursuant to a court order or <i>ex parte</i> order from contacting, threatening, or physically abusing any person? | <input type="text"/> | <input type="text"/> |

Please explain any "YES" answers: _____

Section 134-17, Penalty for Falsification: If any person, in complying with any of the requirements of this part, gives false information or offers false evidence of their identity, they shall be guilty of a misdemeanor. If any person intentionally gives false information or offers false evidence concerning their psychiatric or criminal history, they shall be guilty of a class C felony.

I certify that the answers to the foregoing questions are true and accurate to the best of my knowledge.

NAME (PRINT)_____
WITNESSED BY_____
SIGNATURE_____
DATE/TIME



OCT 13 2015

Firearms Services Bureau
Illinois State Police

STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL

LAWRENCE G. WASDEN

October 7, 2015

Illinois State Police
Firearms Services Bureau
801 South Seventh Street, Suite 400-M
Springfield, IL 62703

Re: Illinois State Police Concealed Carry Licensing Annual Survey

To Whom It May Concern:

The Illinois State Police Concealed Carry Licensing Annual Survey sent to Idaho Attorney General Lawrence G. Wasden was forwarded to me for response. Rather than fill in the survey with my somewhat illegible handwriting, I thought it best to answer it by letter. Idaho's responses are in italics. I have enclosed copies of the statutes referenced with the relevant sections highlighted for convenience of reference.

1. Does your state issue a Concealed Carry License? *Yes. Idaho actually has two concealed weapons licenses, the "original" issued pursuant to IDAHO CODE § 18-3302 (copy enclosed) and the "enhanced" issued pursuant to IDAHO CODE § 18-3302K (copy enclosed).*

a. If YES, for what length of time is the license issued? *Five years for both original and enhanced.*

b. At what age can an individual apply for a Concealed Carry License? *The original Idaho CWL may be issued to someone as young as 18 years old if in the judgment of the sheriff such issuance is warranted. Such issuance is subject to any limitations the sheriff deems appropriate. Idaho Code § 18-3302(19). A person must be over 21 years old to be eligible for an enhanced Idaho CWL. Idaho Code § 18-3302K(4)(a).*

2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License? *Yes, for both Idaho original and enhanced CWLs.*

a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit? *Idaho CWLs are issued by county sheriffs. The sheriff who issued a CWL may check the licensee's NICS*

Illinois State Police
Firearms Services Bureau
October 7, 2015
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background check at any time during the lifetime of the license, but there is no requirement to do so. State and national background records checks, including a check for any mental health records for conditions or commitments that would disqualify a person from possessing a firearm under state or federal law, are also done when a CWL licensee applies to renew his Idaho CWL. See IDAHO CODE §§ 18-3302(10) and (16) and IDAHO CODE § 18-3302K(3) and (9).

3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)? *Yes.*

4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922(g)(4))? *Yes. See IDAHO CODE § 66-356 (copy enclosed).*

5. Does your state report adjudicated mentally defective/committed persons to the NICS Index? *Yes. See IDAHO CODE § 66-356.*

a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922(g)(4). *If an Idaho court orders commitment or treatment of a person found to be mentally defective, appoints a guardian or conservator for such person, or finds a defendant incompetent to stand trial, the court shall make a finding as to whether the subject of the proceeding is a person to whom the provisions of 18 U.S.C. 922(d)(4) and (g)(4) apply. If the court so finds, the clerk of the court is required to forward a copy of the court's order to the Idaho State Police, Bureau of Criminal Identification, which in turn forwards a copy to the Federal Bureau of Investigation for inclusion in the National Instant Criminal Background Check System database. See IDAHO CODE § 66-356(1)(f). These processes are accomplished by electronic transmission.*

b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit? *Idaho CWLs are issued by county sheriffs. The sheriff who issued a CWL may check a licensee's NICS background check at any time, but there is no requirement that he do so.*

6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years? *No. Voluntary admissions are not reported.*

Illinois State Police
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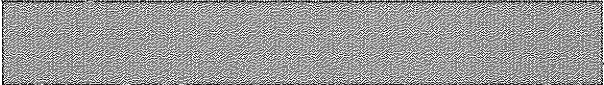
e. If NO, does your state have any process for prohibiting the use of firearms based on a voluntary mental health admission to a treatment facility? *No.*

7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the consideration of mental health and the use or possession of firearms? *No.*

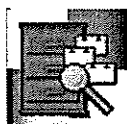
8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses the concern of mental health treatment and the possession of firearms? *No.*

Please let me know if you need any additional information or other assistance concerning Idaho's concealed weapons licensing.

Sincerely,


Stephanie A. Altig
Lead Deputy Attorney General
Idaho State Police

enc.



Idaho Statutes

TITLE 18 CRIMES AND PUNISHMENTS

CHAPTER 33 FIREARMS, EXPLOSIVES AND OTHER DEADLY WEAPONS

18-3302. CONCEALED WEAPONS. (1) The legislature hereby finds that the people of Idaho have reserved for themselves the right to keep and bear arms while granting the legislature the authority to regulate the carrying of weapons concealed. The provisions of this chapter regulating the carrying of weapons must be strictly construed so as to give maximum scope to the rights retained by the people.

(2) As used in this chapter:

(a) "Concealed weapon" means any deadly weapon carried on or about the person in a manner not discernible by ordinary observation;

(b) "Deadly weapon" means:

(i) Any dirk, dirk knife, bowie knife, dagger or firearm;

(ii) Any other weapon, device, instrument, material or substance that is designed and manufactured to be readily capable of causing death or serious bodily injury; or

(iii) Any other weapon, device, instrument, material or substance that is intended by the person to be readily capable of causing death or serious bodily injury.

(c) The term "deadly weapon" does not include:

(i) Any knife, cleaver or other instrument that is intended by the person to be used in the processing, preparation or eating of food;

(ii) Any knife with a blade four (4) inches or less; or

(iii) Any taser, stun-gun, pepper spray or mace;

(d) "Firearm" means any weapon that will, is designed to, or may readily be converted to, expel a projectile by the action of an explosive;

(e) "Loaded" means:

(i) For a firearm capable of using fixed ammunition, that live ammunition is present in:

1. The chamber or chambers of the firearm;

2. Any internal magazine of the firearm; or

3. A detachable magazine inserted in the firearm;

(ii) For a firearm that is not capable of using fixed ammunition, that the firearm contains:

1. A propellant charge; and

2. A priming cap or primer cap.

(3) No person shall carry concealed weapons on or about his person without a license to carry concealed weapons, except:

(a) In the person's place of abode or fixed place of business;

(b) On property in which the person has any ownership or leasehold interest;

(c) On private property where the person has permission to carry concealed weapons from any person with an ownership or leasehold interest;

(d) Outside the limits of or confines of any city.

(4) Subsection (3) of this section shall not apply to restrict or prohibit the carrying or possession of:

(a) Any deadly weapon located in plain view;

(b) Any lawfully possessed shotgun or rifle;

(c) A firearm that is not loaded and is concealed in a motor vehicle;

(d) A firearm that is not loaded and is secured in a case; and

(e) A firearm that is disassembled or permanently altered such that it is not readily operable.

(5) The requirement to secure a license to carry concealed weapons under this section shall not apply to the following persons:

(a) Officials of a city, county or the state of Idaho;

(b) Any publicly elected Idaho official;

(c) Members of the armed forces of the United States or of the national guard when in performance of official duties;

(d) Criminal investigators of the attorney general's office and criminal investigators of a prosecuting attorney's office, prosecutors and their deputies;

(e) Any peace officer as defined in section 19-5101(d), Idaho Code, in good standing;

(f) Retired peace officers or detention deputies with at least ten (10) years of service with the state or a political subdivision as a peace officer or detention deputy and who have been certified by the peace officer standards and training council;

(g) Any person who has physical possession of his valid license or permit authorizing him to carry concealed weapons from another state; and

(h) Any person who has physical possession of a valid license or permit from a local law enforcement agency or court of the United States authorizing him to carry concealed weapons.

(6) The sheriff of the county of the applicant's residence or, if the applicant has obtained a protection order pursuant to chapter 63, title 39, Idaho Code, the sheriff of a county where the applicant is temporarily residing may issue a temporary emergency license for good cause pending review of an application made under subsection (7) of this section. Temporary emergency licenses must be easily distinguishable from regular licenses. A temporary emergency license shall be valid for not more than ninety (90) days.

(7) The sheriff of a county, on behalf of the state of Idaho, must, within ninety (90) days after the filing of a license application by any person who is not disqualified as provided herein from possessing or receiving a firearm under state or federal law, issue a license to the person to carry concealed weapons on his person within this state. Such license shall be valid for five (5) years from the date of issuance.

(8) The sheriff must make license applications readily available at the office of the sheriff, at other public offices in his or her jurisdiction and on the website of the Idaho state police. The license application shall be in a form to be prescribed by the director of the Idaho state police and must meet the following requirements:

(a) The license application shall require the applicant's name, address, description, signature, date of birth, place of birth, military status, citizenship and the driver's license number or state identification card number if used for identification in applying for the license. Provided however, that if the applicant is not a United

States citizen and is legally in the United States, the application must also require any alien or admission number issued to the applicant by United States immigration and customs enforcement or any successor agency;

(b) The license application may ask the applicant to disclose his social security number but must indicate that disclosure of the applicant's social security number is optional; and

(c) The license application must contain a warning that substantially reads as follows:

CAUTION: Federal law and state law on the possession of weapons and firearms differ. If you are prohibited by federal law from possessing a weapon or a firearm, you may be prosecuted in federal court. A state permit is not a defense to a federal prosecution.

(9) The sheriff may require the applicant to demonstrate familiarity with a firearm and must accept any one (1) of the following as evidence of the applicant's familiarity with a firearm:

(a) Completion of any hunter education or hunter safety course approved by the department of fish and game or a similar agency of another state;

(b) Completion of any national rifle association firearms safety or training course or any national rifle association hunter education course or any equivalent course;

(c) Completion of any firearms safety or training course or class available to the general public offered by a law enforcement agency, community college, college, university or private or public institution or organization or firearms training school, utilizing instructors certified by the national rifle association or the Idaho state police;

(d) Completion of any law enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or offered for any division or subdivision of a law enforcement agency or security enforcement agency;

(e) Evidence of equivalent experience with a firearm through participation in organized shooting competition or military service;

(f) Is currently licensed to carry concealed weapons pursuant to this section, unless the license has been revoked for cause;

(g) Completion of any firearms training or safety course or class conducted by a state certified or national rifle association certified firearms instructor; or

(h) Other training that the sheriff deems appropriate.

(10) Any person applying for original issuance of a license to carry concealed weapons must submit his fingerprints with the completed license application. Within five (5) days after the filing of an application, the sheriff must forward the applicant's completed license application and fingerprints to the Idaho state police. The Idaho state police must conduct a national fingerprint-based records check, an inquiry through the national instant criminal background check system and a check of any applicable state database, including a check for any mental health records for conditions or commitments that would disqualify a person from possessing a firearm under state or federal law, and return the results to the sheriff within sixty (60) days. If the applicant is not a United States citizen, an immigration alien query must also be conducted through United States immigration and customs enforcement or any successor agency. The sheriff shall not issue a license before receiving the results of the

records check and must deny a license if the applicant is disqualified under any of the criteria listed in subsection (11) of this section. The sheriff may deny a license to carry concealed weapons to an alien if background information is not attainable or verifiable.

(11) A license to carry concealed weapons shall not be issued to any person who:

- (a) Is under twenty-one (21) years of age, except as otherwise provided in this section;
- (b) Is formally charged with a crime punishable by imprisonment for a term exceeding one (1) year;
- (c) Has been adjudicated guilty in any court of a crime punishable by imprisonment for a term exceeding one (1) year;
- (d) Is a fugitive from justice;
- (e) Is an unlawful user of marijuana or any depressant, stimulant or narcotic drug, or any controlled substance as defined in 21 U.S.C. section 802;
- (f) Is currently suffering from or has been adjudicated as having suffered from any of the following conditions, based on substantial evidence:
 - (i) Lacking mental capacity as defined in section 18-210, Idaho Code;
 - (ii) Mentally ill as defined in section 66-317, Idaho Code;
 - (iii) Gravely disabled as defined in section 66-317, Idaho Code;
 - or
 - (iv) An incapacitated person as defined in section 15-5-101, Idaho Code.
- (g) Has been discharged from the armed forces under dishonorable conditions;
- (h) Has been adjudicated guilty of or received a withheld judgment or suspended sentence for a crime of violence constituting a misdemeanor or a crime that would disqualify him from obtaining a concealed weapons license, unless three (3) years have elapsed since entry of judgment or successful completion of probation prior to the date on which the application is submitted;
- (i) Is an alien illegally in the United States;
- (j) Is a person who having been a citizen of the United States has renounced his or her citizenship;
- (k) Is free on bond or personal recognizance pending trial, appeal or sentencing for a crime which would disqualify him from obtaining a concealed weapons license;
- (l) Is subject to a protection order issued under chapter 63, title 39, Idaho Code, that restrains the person from harassing, stalking or threatening an intimate partner of the person or child of the intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; or
- (m) Is for any other reason ineligible to own, possess or receive a firearm under the provisions of Idaho or federal law. In making a determination in relation to an applicant's eligibility under this subsection, the sheriff shall not consider:
 - (i) A conviction, guilty plea or adjudication that has been nullified by expungement, pardon, setting aside or other comparable procedure by the jurisdiction where the conviction, guilty plea or adjudication occurred or in respect of which conviction, guilty plea or adjudication the applicant's civil right to bear arms either specifically or in combination with

other civil rights has been restored under operation of law or legal process; or

(ii) Except as provided for in paragraph (f) of this subsection, an adjudication of mental defect, incapacity or illness or an involuntary commitment to a mental institution if the applicant's civil right to bear arms has been restored under operation of law or legal process.

(12) A license to carry concealed weapons must be in a form substantially similar to that of the Idaho driver's license and must meet the following specifications:

(a) The license must provide the licensee's name, address, date of birth and the driver's license number or state identification card number if used for identification in applying for the license;

(b) The license must bear the licensee's signature and picture; and

(c) The license must provide the date of issuance and the date on which the license expires.

(13) Upon issuing a license under the provisions of this section, the sheriff must notify the Idaho state police within three (3) business days on a form or in a manner prescribed by the Idaho state police. Information relating to an applicant or licensee received or maintained pursuant to this section by the sheriff or Idaho state police is confidential and exempt from disclosure under section 9-340B [74-105], Idaho Code.

(14) The fee for original issuance of a license shall be twenty dollars (\$20.00), which the sheriff must retain for the purpose of performing the duties required in this section. The sheriff may collect the actual cost of any additional fees necessary to cover the cost of processing fingerprints lawfully required by any state or federal agency or department, and the actual cost of materials for the license lawfully required by any state agency or department, which costs must be paid to the state. The sheriff must provide the applicant with a copy of the results of the fingerprint-based records check upon request of the applicant.

(15) The fee for renewal of the license shall be fifteen dollars (\$15.00), which the sheriff must retain for the purpose of performing the duties required in this section. The sheriff may collect the actual cost of any additional fees necessary to cover the processing costs lawfully required by any state or federal agency or department, and the actual cost of materials for the license lawfully required by any state agency or department, which costs must be paid to the state.

(16) Every license that is not, as provided by law, suspended, revoked or disqualified in this state shall be renewable at any time during the ninety (90) day period before its expiration or within ninety (90) days after the expiration date. The sheriff must mail renewal notices ninety (90) days prior to the expiration date of the license. The sheriff shall require the licensee applying for renewal to complete an application. The sheriff must submit the application to the Idaho state police for a records check of state and national databases. The Idaho state police must conduct the records check and return the results to the sheriff within thirty (30) days. The sheriff shall not issue a renewal before receiving the results of the records check and must deny a license if the applicant is disqualified under any of the criteria provided in this section. A renewal license shall be valid for a period of five (5) years. A license so renewed shall take effect on the expiration date of the prior license. A licensee renewing ninety-one (91) days to one hundred eighty (180) days after the expiration date of the license must pay a late renewal penalty of ten dollars (\$10.00) in addition to the renewal fee unless waived by the sheriff, except that any licensee serving on active

duty in the armed forces of the United States during the renewal period shall not be required to pay a late renewal penalty upon renewing ninety-one (91) days to one hundred eighty (180) days after the expiration date of the license. After one hundred eighty-one (181) days, the licensee must submit an initial application for a license and pay the fees prescribed in subsection (14) of this section. The renewal fee and any penalty shall be paid to the sheriff for the purpose of enforcing the provisions of this chapter. Upon renewing a license under the provisions of this section, the sheriff must notify the Idaho state police within five (5) days on a form or in a manner prescribed by the Idaho state police.

(17) No city, county or other political subdivision of this state shall modify or add to the requirements of this section, nor shall a city, county or political subdivision ask the applicant to voluntarily submit any information not required in this section. A civil action may be brought to enjoin a wrongful refusal to issue a license or a wrongful modification of the requirements of this section. The civil action may be brought in the county in which the application was made or in Ada county at the discretion of the petitioner. Any person who prevails against a public agency in any action in the courts for a violation of this section must be awarded costs, including reasonable attorney's fees incurred in connection with the legal action.

(18) A county sheriff, deputy sheriff or county employee who issues a license to carry a concealed weapon under this section shall not incur any civil or criminal liability as the result of the performance of his duties in compliance with this section.

(19) The sheriff of a county may issue a license to carry a concealed weapon to those individuals between the ages of eighteen (18) and twenty-one (21) years who in the judgment of the sheriff warrant the issuance of the license. Such issuance shall be subject to limitations which the issuing authority deems appropriate. Licenses issued to individuals between the ages of eighteen (18) and twenty-one (21) years shall be easily distinguishable from licenses issued pursuant to subsection (7) of this section.

(20) A person carrying a concealed weapon in violation of the provisions of this section shall be guilty of a misdemeanor.

(21) The sheriff of the county where the license was issued or the sheriff of the county where the person resides shall have the power to revoke a license subsequent to a hearing in accordance with the provisions of chapter 52, title 67, Idaho Code, for any of the following reasons:

- (a) Fraud or intentional misrepresentation in the obtaining of a license;
- (b) Misuse of a license, including lending or giving a license to another person, duplicating a license or using a license with the intent to unlawfully cause harm to a person or property;
- (c) The doing of an act or existence of a condition which would have been grounds for the denial of the license by the sheriff;
- (d) The violation of any of the terms of this section; or
- (e) The applicant is adjudicated guilty of or receives a withheld judgment for a crime which would have disqualified him from initially receiving a license.

(22) A person twenty-one (21) years of age or older who presents a valid license to carry concealed weapons is exempt from any requirement to undergo a records check at the time of purchase or transfer of a firearm from a federally licensed firearms dealer. Provided however, a temporary emergency license issued pursuant to subsection (6) of this section shall not exempt the holder of the license from any records check requirement.

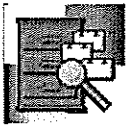
(23) The attorney general must contact the appropriate officials in other states for the purpose of establishing, to the extent possible, recognition and reciprocity of the license to carry concealed weapons by other states, whether by formal agreement or otherwise. The Idaho state police must keep a copy and maintain a record of all such agreements and reciprocity recognitions, which must be made available to the public.

(24) Nothing in subsection (3) or (4) of this section shall be construed to limit the existing rights of a private property owner, private tenant, private employer or private business entity.

(25) The provisions of this section are hereby declared to be severable and if any provision of this section or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this section.

History:

[18-3302, added 2015, ch. 303, sec. 2, p. 1188.]



Idaho Statutes

TITLE 18 CRIMES AND PUNISHMENTS

CHAPTER 33 FIREARMS, EXPLOSIVES AND OTHER DEADLY WEAPONS

18-3302K. ISSUANCE OF ENHANCED LICENSES TO CARRY CONCEALED WEAPONS. (1) The sheriff of a county, on behalf of the state of Idaho, must, within ninety (90) days after the filing of an application by any person who is not disqualified from possessing or receiving a firearm under state or federal law and has otherwise complied with the requirements of this section, issue an enhanced license to the person to carry concealed weapons on his person. Licenses issued under this section shall be valid for five (5) years from the date of issue.

(2) The sheriff must make license applications readily available at the office of the sheriff, at other public offices in his jurisdiction and on the website of the Idaho state police. The license application must be in a form to be prescribed by the director of the Idaho state police and must meet the following requirements:

- (a) The license application shall require the applicant's name, address, description, signature, date of birth, place of birth, military status, citizenship and the driver's license number or state identification card number if used for identification in applying for the license. If the applicant is not a U.S. citizen, the application shall also require any alien or admission number issued to the applicant by U.S. immigration and customs enforcement, or any successor agency;
- (b) The license application may ask the applicant to disclose his social security number but must indicate that disclosure of the applicant's social security number is optional; and
- (c) The license application must contain a warning that substantially reads as follows:

CAUTION: Federal law and state law on the possession of weapons and firearms differ. If you are prohibited by federal law from possessing a weapon or a firearm, you may be prosecuted in federal court. A state permit is not a defense to a federal prosecution.

(3) Any person who is applying for original issuance of a license to carry concealed weapons must submit his fingerprints with the completed application. Within five (5) days after the filing of an application, the sheriff must forward the applicant's completed license application and fingerprints to the Idaho state police. The Idaho state police must conduct a national fingerprint-based records check, an inquiry through the national instant criminal background check system, and a check of any applicable state database, including a check for any mental health records

for conditions or commitments that would disqualify a person from possessing a firearm under state or federal law, and must return the results to the sheriff within sixty (60) days. If the applicant is not a U.S. citizen, an immigration alien query must also be conducted through U.S. immigration and customs enforcement or any successor agency. The sheriff shall not issue a license before receiving and reviewing the results of the records check.

(4) The sheriff must deny an enhanced license to carry a concealed weapon if the applicant is disqualified under any of the criteria listed in section 18-3302(11), Idaho Code, or does not meet all of the following qualifications:

- (a) Is over the age of twenty-one (21) years;
- (b) Has been a legal resident of the state of Idaho for at least six (6) consecutive months before filing an application under this section or holds a current license or permit to carry concealed weapons issued by his state of residence; and
- (c) Has successfully completed within the twelve (12) months immediately preceding filing an application, a qualifying handgun course as specified in this paragraph and taught by a certified instructor who is not prohibited from possessing firearms under state or federal law. A copy of the certificate of successful completion of the handgun course, in a form to be prescribed by the director of the Idaho state police and signed by the course instructor, must be submitted to the sheriff at the time of filing an application under this section. Certified instructors of handgun courses when filing an application under this section shall not be required to submit such certificates but must submit a copy of their current instructor's credential. The sheriff must accept as a qualifying handgun course a personal protection course offered by the national rifle association or an equivalent, provided that all personal protection or equivalent courses must meet the following requirements:

- (i) The course instructor is certified by the national rifle association, or by another nationally recognized organization that customarily certifies firearms instructors, as an instructor in personal protection with handguns, or the course instructor is certified by the Idaho peace officers standards and training council as a firearms instructor;
- (ii) The course is at least eight (8) hours in duration;
- (iii) The course is taught face to face and not by electronic or other means; and
- (iv) The course includes instruction in:
 - 1. Idaho law relating to firearms and the use of deadly force, provided that such instruction is delivered by either of the following whose name and credential must appear on the certificate:
 - (A) An active licensed member of the Idaho state bar; or
 - (B) A law enforcement officer who possesses an intermediate or higher Idaho peace officers standards and training certificate.
 - 2. The basic concepts of the safe and responsible use of handguns;
 - 3. Self-defense principles; and
 - 4. Live fire training including the firing of at least ninety-eight (98) rounds by the student.

An instructor must provide a copy of the syllabus and a written description of the course of fire used in a qualifying handgun course

that includes the name of the individual instructing the legal portion of the course to the sheriff upon request.

(5) A license to carry concealed weapons must be in a form substantially similar to that of the Idaho driver's license and must meet the following specifications:

(a) The license must provide the licensee's name, address, date of birth and the driver's license number or state identification card number if used for identification in applying for the license;

(b) The license must bear the licensee's signature and picture;

(c) The license must provide the date of issuance and the date on which the license expires; and

(d) The license must be clearly distinguishable from a license issued pursuant to section 18-3302, Idaho Code, and must be marked "Idaho enhanced concealed weapons license" on its face.

(6) Upon issuing a license under the provisions of this section, the sheriff must notify the Idaho state police within three (3) days on a form or in a manner prescribed by the Idaho state police. Information relating to an applicant or licensee received or maintained pursuant to this section by the sheriff or Idaho state police is confidential and exempt from disclosure under section 74-105, Idaho Code.

(7) The fee for original issuance of an enhanced license shall be twenty dollars (\$20.00), which the sheriff must retain for the purpose of performing the duties required in this section. The sheriff may collect the actual cost of any additional fees necessary to cover the processing costs lawfully required by any state or federal agency or department, and the actual cost of materials for the license lawfully required by any state agency or department, which costs must be paid to the state. The sheriff must provide the applicant with a copy of the results of the fingerprint-based records check upon request of the applicant.

(8) The fee for renewal of the enhanced license shall be fifteen dollars (\$15.00), which the sheriff must retain for the purpose of performing duties required in this section. The sheriff may collect the actual cost of any additional fees necessary to cover the processing costs lawfully required by any state or federal agency or department, and the actual cost of materials for the license lawfully required by any state agency or department, which costs must be paid to the state.

(9) Every license that is not, as provided by law, suspended, revoked or disqualified in this state shall be renewable at any time during the ninety (90) day period before its expiration or within ninety (90) days after the expiration date. The sheriff must mail renewal notices ninety (90) days prior to the expiration date of the license. The sheriff shall require the licensee applying for renewal to complete an application. The sheriff must submit the application to the Idaho state police. The Idaho state police must conduct the same records checks as required for an initial license under subsection (3) of this section and must return the results to the sheriff within thirty (30) days. The sheriff shall not issue a renewal before receiving and reviewing the results of the records check and must deny a license if the applicant is disqualified under any of the criteria provided in this section. A renewal license shall be valid for a period of five (5) years. A license so renewed shall take effect on the expiration date of the prior license. A licensee renewing ninety-one (91) days to one hundred eighty (180) days after the expiration date of the license must pay a late renewal penalty of ten dollars (\$10.00) in addition to the renewal fee, except that any licensee serving on active duty in the armed forces of the United States during the renewal period shall not be required to pay a late renewal penalty upon renewing ninety-one (91) days to one hundred eighty (180) days after the expiration date

of the license. After one hundred eighty-one (181) days, the licensee shall be required to submit an initial application for an enhanced license and pay the fees prescribed in subsection (7) of this section. The renewal fee and any penalty shall be paid to the sheriff for the purpose of enforcing the provisions of this chapter. Upon renewing a license under the provisions of this section, the sheriff must notify the Idaho state police within five (5) days on a form or in a manner prescribed by the Idaho state police.

(10) No city, county or other political subdivision of this state shall modify or add to the requirements of this section, nor shall a city, county or political subdivision ask the applicant to voluntarily submit any information not required in this section. A civil action may be brought to enjoin a wrongful refusal to issue a license or a wrongful modification of the requirements of this section. The civil action may be brought in the county in which the application was made or in Ada county at the discretion of the petitioner. Any person who prevails against a public agency in any action in the courts for a violation of this section must be awarded costs, including reasonable attorney's fees incurred in connection with the legal action.

(11) A county sheriff, deputy sheriff or county employee who issues a license to carry a concealed weapon under this section shall not incur any civil or criminal liability as the result of the performance of his or her duties in compliance with this section.

(12) The sheriff shall have the power to revoke a license issued pursuant to this section subsequent to a hearing in accordance with the provisions of chapter 52, title 67, Idaho Code, for any of the following reasons, provided that the sheriff must notify the Idaho state police within three (3) days on a form or in a manner prescribed by the Idaho state police of any such revocation:

- (a) Fraud or intentional misrepresentation in the obtaining of a license;
- (b) Misuse of a license, including lending or giving a license to another person, duplicating a license or using a license with the intent to unlawfully cause harm to a person or property;
- (c) The doing of an act or existence of a condition that would have been grounds for the denial of the license by the sheriff;
- (d) The violation of any of the provisions of this section; or
- (e) The applicant is adjudicated guilty of or receives a withheld judgment for a crime that would have disqualified him from initially receiving a license.

(13) An applicant who provides information on the application for an enhanced license to carry a concealed weapon knowing the same to be untrue shall be guilty of a misdemeanor.

(14) The attorney general must contact the appropriate officials in other states for the purpose of establishing, to the extent possible, recognition and reciprocity of the enhanced license to carry a concealed weapon by other states, whether by formal agreement or otherwise. The Idaho state police or the attorney general must keep a copy and maintain a record of all such agreements and reciprocity recognitions that must be made available to the public.

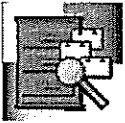
(15) Any license issued pursuant to this section is valid throughout the state of Idaho and shall be considered an authorized state license.

(16) The Idaho state police must maintain a computerized record system that is accessible to law enforcement agencies in any state for the purpose of verifying current enhanced licensee status. Information maintained in the record system shall be confidential and exempt from disclosure under section 74-105, Idaho Code, except that any law

- enforcement officer or law enforcement agency, whether inside or outside the state of Idaho, may access the record system for the purpose of verifying current enhanced licensee status.

History:

[18-3302K, added 2015, ch. 303, sec. 5, p. 1194; am. 2015, ch. 141, sec. 18, p. 398.]



Idaho Statutes

TITLE 66 STATE CHARITABLE INSTITUTIONS

CHAPTER 3 HOSPITALIZATION OF MENTALLY ILL

66-356. RELIEF FROM FIREARMS DISABILITIES. (1) A court that:

- (a) Orders commitment pursuant to section 66-329, Idaho Code;
- (b) Orders commitment or treatment pursuant to section 66-406, Idaho Code;
- (c) Appoints a guardian pursuant to section 66-322, Idaho Code, or section 15-5-304, Idaho Code;
- (d) Appoints a conservator pursuant to section 15-5-407(b), Idaho Code;
- (e) Appoints a guardian or conservator pursuant to section 66-404, Idaho Code; or
- (f) Finds a defendant incompetent to stand trial pursuant to section 18-212, Idaho Code, shall make a finding as to whether the subject of the proceeding is a person to whom the provisions of 18 U.S.C. 922(d)(4) and (g)(4) apply. If the court so finds, the clerk of the court shall forward a copy of the order to the Idaho state police, which in turn shall forward a copy to the federal bureau of investigation, or its successor agency, for inclusion in the national instant criminal background check system database.

(2) A person who is subject to an order, including an appointment or finding described in subsection (1) of this section, may petition the magistrate division of the court that issued such order, or the magistrate division of the district court of the county where the individual resides, to remove the person's firearms-related disabilities as provided in section 105(a) of P.L. 110-180. A copy of the petition for relief shall also be served on the director of the department of health and welfare and the prosecuting attorney of the county in which the original order, appointment or finding occurred, and such department and office may, as it deems appropriate, appear, support, object to and present evidence relevant to the relief sought by the petitioner. The court shall receive and consider evidence, including evidence offered by the petitioner, concerning:

- (a) The circumstances of the original order, appointment or finding;
- (b) The petitioner's mental health and criminal history records, if any;
- (c) The petitioner's reputation; and
- (d) Changes in the petitioner's condition or circumstances relevant to the relief sought.

The court shall grant the petition for relief if it finds by a preponderance of the evidence that the petitioner will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest. The petitioner may

appeal a denial of the requested relief, and review on appeal shall be de novo. A person may file a petition for relief under this section no more than once every two (2) years.

(3) When a court issues an order granting a petition for relief under subsection (2) of this section, the clerk of the court shall immediately forward a copy of the order to the Idaho state police, which in turn shall immediately forward a copy to the federal bureau of investigation, or its successor agency, for inclusion in the national instant criminal background check system database.

History:

[66-356, added 2010, ch. 267, sec. 1, p. 674.]



ILLINOIS STATE POLICE
Concealed Carry Licensing Annual Survey

1. Does your state issue a Concealed Carry License?

YES	NO
<input checked="" type="checkbox"/>	<input type="checkbox"/>

a. If YES, for what length of time is the license issued?

4 YEAR & LIFETIME PERIOD PROTECTION

b. At what age can an individual apply for a Concealed Carry License?

18 YEARS OLD

2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g)(4))?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

5. Does your state report adjudicated mentally defective/committed persons to the NICS Index?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g)(4).

THE COURTS, PROSECUTOR'S OFFICE AS WELL AS LAW ENFORCEMENT AGENCIES ALL HAVE THE ABILITY TO MAKE ENTRIES INTO NICS.

b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years? (SEE 6a)

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

a. If YES, are mental health admissions reported to your agency by an entity other than the applicant?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

If YES to 6.a., please describe.

THERE IS NO PROCEDURE THAT RESULTS IN AN AUTOMATIC SUSPENSION. HOWEVER IF THE ISSUE GIVES RISE A FELONY THAT THE PERSON MAY HAVE A PROPENSITY TO VIOLENCE OR EMOTIONALLY UNSTABLE CONDUCT THEN THE LICENSE CAN BE SUSPENDED

THE COURTS REPORT THROUGH NICS. THE COURTS ALSO SEND THE INFORMATION DIRECTLY TO THE FIREARMS SYSTEM.

b. If YES, does the applicant provide information concerning their mental health status at the time of application?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

c. If YES, is there any check or validation of the information provided by the applicant?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

YES NO

If YES to 6.c., please describe.

THE APPLICANT IS REQUIRED TO PRODUCE DOCUMENTATION REGARDING
his/her mental health.
(OUR Requirement)-RECOMMENDATION to be completed by the doctor

d. If YES, please provide your state statute reference.

NONE

e. If NO, does your state have any process for prohibiting the use or possession of firearms
based on a voluntary mental health admission to a treatment facility?☒

If YES to 6.e., please describe.

ONLY IF THE APPLICANT IS ADJUDICATED AS VIOLENT OR EMOTIONALLY
UNSTABLE.

7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the
consideration of mental health and the use or possession of firearms?☒

a. If YES, please describe.

SEE 6A

8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses
the concern of mental health treatment and the possession of firearms?☒

a. If YES, what is the effective date?

NO

b. If YES, please provide a copy of the legislative language.

Person completing the survey:

LT. MICHAEL S. ROGERS

Name

INDIANA STATE Police Dept.

Agency

COMMANDER, FIREARMS Unit

Title

Indianapolis Indiana 46204

City, State, Zip code

mrogers@isp.in.gov

Email

(317) 232-8263

Telephone

Our state does issue a concealed Carry License

- We issue a 4 year and a Lifetime Personal Protection Permit
- The license/permit can be obtained at age 18

A NICS check is completed during the background phase of the application process.

- New conviction and protective order reports are generated daily.
- The reports are run against the firearms database daily.

Indiana does report handgun licenses via NLETS.

If an individual has been adjudicated as mentally defective or committed to a mental institution the applicant can be disqualified.

Individuals adjudicated mentally defective are reported through NICS Index.

- The courts, prosecutor's offices and law enforcement agencies all have the ability to make entries into NICS.
- The only a federal NICS check is done is if we have a reason to re-run the applicant. For example, if an applicant request a duplicate license. All checks are re-run during the duplicate process.

The state does not prohibit the use or possession of firearms based on the voluntary mental health admission.

- There is no procedure that results in an automatic suspension, however if the issue gives rise a belief that the applicant may have a propensity to violence or emotionally unstable conduct, the license can be suspended.
- The courts report through NICS. The courts also send the information directly to the Firearms System.
- The applicant is required to provide accurate mental health information on his/her application. The applicant is required to provide documentation. Our policy is that the applicant get a recommendation from the doctor. This is our policy not by state statute.
- The only time the applicant is can be disqualified is if he/she is adjudicated as violent or emotionally unstable



ILLINOIS STATE POLICE
Concealed Carry Licensing Annual Survey

1. Does your state issue a Concealed Carry License?

YES	NO
<input checked="" type="checkbox"/>	<input type="checkbox"/>

a. If YES, for what length of time is the license issued?

Validity varies by license type:
 Nonprofessional - 5 years
 Professional - 1 year
 Peace officer, correctional officer permits - Non-expiring throughout employment with same agency

b. At what age can an individual apply for a Concealed Carry License?

Varies by type: Nonpro = 21, Pro, Peace officer, and correctional officer = 18

2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g)(4))?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

5. Does your state report adjudicated mentally defective/committed persons to the NICS Index?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g)(4).

All new mental health related commitments are automatically reported to NICS since 1/1/2011. We recently completed a retroactive reporting project to report all commitments from roughly 1991 to Dec. 31, 2010.

b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

a. If YES, are mental health admissions reported to your agency by an entity other than the applicant?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

If YES to 6.a., please describe.

b. If YES, does the applicant provide information concerning their mental health status at the time of application?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

c. If YES, is there any check or validation of the information provided by the applicant?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

If YES to 6.c., please describe.

d. If YES, please provide your state statute reference.

e. If NO, does your state have any process for prohibiting the use or possession of firearms based on a voluntary mental health admission to a treatment facility?

☐ ☒

If YES to 6.e., please describe.

7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the consideration of mental health and the use or possession of firearms?

☒ ☐

a. If YES, please describe.

To a limited degree, but not with respect to possession, just with respect to carrying. A permit issuing officer (99 Sheriffs and Iowa DPS) has limited authority to deny a permit to carry weapons to a person based on documented specific actions of the person, which could include mental health related matters, or anything else that falls short of triggering a state or federal possession prohibitor, but which provides cause to believe a person may use a firearm unlawfully or in a manner to injure any person.

8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses the concern of mental health treatment and the possession of firearms?

☐ ☒

a. If YES, what is the effective date?

b. If YES, please provide a copy of the legislative language.

Person completing the survey:

Ross Loder

Name

Bureau Chief

Title

Email

Iowa Department of Public Safety

Agency

Des Moines, IA 50319

City, State, Zip code

(515) 725-6233

Telephone



ILLINOIS STATE POLICE
Concealed Carry Licensing Annual Survey

1. Does your state issue a Concealed Carry License?

YES	NO
<input checked="" type="checkbox"/>	<input type="checkbox"/>

a. If YES, for what length of time is the license issued?

4 years

b. At what age can an individual apply for a Concealed Carry License?

21

2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g)(4))?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

5. Does your state report adjudicated mentally defective/committed persons to the NICS Index?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g)(4).

See K.S.A. 75-7c25 through 75-7c27

b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

a. If YES, are mental health admissions reported to your agency by an entity other than the applicant? *N/A*

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

If YES to 6.a., please describe.

<i>N/A</i>

b. If YES, does the applicant provide information concerning their mental health status at the time of application? *N/A*

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

c. If YES, is there any check or validation of the information provided by the applicant?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

If YES to 6.c., please describe.

N/A.

d. If YES, please provide your state statute reference.

N/A

e. If NO, does your state have any process for prohibiting the use or possession of firearms based on a voluntary mental health admission to a treatment facility?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

If YES to 6.e., please describe.

Not directly. If a voluntary admission becomes involuntary then it is possible. Perhaps a voluntary admit for initial evaluation results in a finding the person should be admitted for further treatment and the patient disagrees.
--

7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the consideration of mental health and the use or possession of firearms?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. If YES, please describe.

K.S.A. 21-6301(a)(13) Possession of firearms by persons subject to involuntary care and treatment. K.S.A. 75-7.25 thru 75-7.27
--

8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses the concern of mental health treatment and the possession of firearms?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

a. If YES, what is the effective date?

--

b. If YES, please provide a copy of the legislative language.

Person completing the survey:

CHARLES KLEBE

Name

Asst. Attorney General

Title

charles.klebe@ag.ks.gov

Email

KANSAS ATTORNEY GENERAL

Agency

Topeka, KS, 666012

City, State, Zip code

785 291-3765

Telephone



**STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL**

DEREK SCHMIDT
ATTORNEY GENERAL

MEMORIAL HALL
120 SW 10TH AVE., 2ND FLOOR
TOPEKA, KS 66612-1597
(785) 296-2215 • FAX (785) 296-6296
WWW.AG.KS.GOV

Firearm Services Bureau
801 S. Seventh St., Ste. 400-M
Springfield, IL 62703

RE: Responses to Concealed Carry License Questionnaire

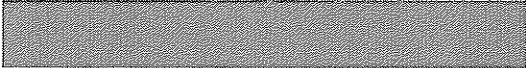
To Whom It May Concern:

Below are the Kansas Attorney General's Office's responses to your inquiries about our State firearm laws.

1. Yes
- 1a. Four (4) years
- 1b. 21 years or older
2. Yes
- 2a. Yes
3. Yes
4. Yes (under our State mental health analogues (See, K.S.A. §§ 21-6301, 59-2966 & 59-29b66)
5. Yes
- 5a. Please reference 75-7c25 (requiring district courts to submit involuntary mental health commitment orders to the Kansas Bureau of Investigation for addition to necessary State and Federal databases) through 75-7c27.
- 5b. Yes – our CCLU (concealed carry licensing unit) has the ability to run “NICS checks” at any point in time to confer continued lawfulness. See, 75-7c07(a).
6. No.
- 6a-d. N/A
- 6e. No – not directly anyway. If a temporary “voluntary admission” for evaluation turns into a finding that the patient needs further evaluation and treatment, that COULD turn into an involuntary admission/order by the Court.
7. Yes.
- 7a. See, K.S.A. §§ 21-6301; 59-2966 & 59-29b66; & K.S.A. §75-7c25 - § 75-7c27
8. No.
- 8a-b. N/A

Should you have any questions, please feel free to contact me at any time by phone or email listed below.

Sincerely,



Charles W. Klebe
Assistant Attorney General
Kansas Attorney General's Office
Concealed Carry Licensing Unit
120 SW Tenth Ave.
Topeka, KS 66612
(785) 291-3765
charles.klebe@ag.ks.gov



ILLINOIS STATE POLICE
Concealed Carry Licensing Annual Survey

1. Does your state issue a Concealed Carry License?

YES	NO
<input checked="" type="checkbox"/>	<input type="checkbox"/>

a. If YES, for what length of time is the license issued?

5 years

b. At what age can an individual apply for a Concealed Carry License?

21

2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g)(4))?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

5. Does your state report adjudicated mentally defective/committed persons to the NICS Index?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g)(4).

Court orders for Adjudicated Mental defective/committed persons are relayed by the courts to the KSP NICS section for entry into the NICS denied persons index.

b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

a. If YES, are mental health admissions reported to your agency by an entity other than the applicant?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

If YES to 6.a., please describe.

b. If YES, does the applicant provide information concerning their mental health status at the time of application?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

c. If YES, is there any check or validation of the information provided by the applicant?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

If YES to 6.c., please describe.

d. If YES, please provide your state statute reference.

e. If NO, does your state have any process for prohibiting the use or possession of firearms based on a voluntary mental health admission to a treatment facility?

☐

☒

If YES to 6.e., please describe.

7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the consideration of mental health and the use or possession of firearms?

☐

☒

a. If YES, please describe.

8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses the concern of mental health treatment and the possession of firearms?

☐

☒

a. If YES, what is the effective date?

b. If YES, please provide a copy of the legislative language.

Person completing the survey:

Dana Peacock

Name

Program Coordinator

Title

Email

Kentucky State Police

Agency

1266 Louisville rd Frankfort Ky 40601

City, State, Zip code

(502) 782-9793

Telephone



ILLINOIS STATE POLICE
Concealed Carry Licensing Annual Survey

1. Does your state issue a Concealed Carry License?

YES	NO
<input checked="" type="checkbox"/>	<input type="checkbox"/>

a. If YES, for what length of time is the license issued?

5 years or Lifetime

b. At what age can an individual apply for a Concealed Carry License?

21

2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g)(4))?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

5. Does your state report adjudicated mentally defective/committed persons to the NICS Index?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g)(4).

Pursuant to La. R.S. 13:753 et seq., each district clerk of court shall report to the Louisiana Supreme Court for reporting to NICS the name and other identifying information of any adult who is prohibited from possessing a firearm pursuant to State law or 18 USC 922(d)(4) and (g)(4). The Supreme Court shall, within 15 days, submit the information to NICS.

b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. If YES, are mental health admissions reported to your agency by an entity other than the applicant?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

If YES to 6.a., please describe.

The applicants demographic information is electronically searched against the Dept. of Health and Hospitals' database for voluntary submissions to mental health facilities.

b. If YES, does the applicant provide information concerning their mental health status at the time of application?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

c. If YES, is there any check or validation of the information provided by the applicant?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

YES	NO
-----	----

If YES to 6.c., please describe.

The applicant must return a standardized Medical Summary form signed by a doctor stating the applicant is capable of safely handling a firearm and the applicant does not pose any threat or risk of injury to themselves or others.

d. If YES, please provide your state statute reference.

La. R.S. 40:1379.3(C)(13)

e. If NO, does your state have any process for prohibiting the use or possession of firearms based on a voluntary mental health admission to a treatment facility?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

If YES to 6.e., please describe.

--

7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the consideration of mental health and the use or possession of firearms?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

a. If YES, please describe.

--

8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses the concern of mental health treatment and the possession of firearms?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

a. If YES, what is the effective date?

b. If YES, please provide a copy of the legislative language.

Person completing the survey:

Stacey Barrett

Name

Captain

Title

Email

Louisiana State Police

Agency

Baton Rouge, LA 70806

City, State, Zip code

(225) 925-4935

Telephone



ILLINOIS STATE POLICE
Concealed Carry Licensing Annual Survey

YES	NO
<input checked="" type="checkbox"/>	<input type="checkbox"/>

1. Does your state issue a Concealed Carry License?

a. If YES, for what length of time is the license issued?

4 years

b. At what age can an individual apply for a Concealed Carry License?

18

2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g)(4))?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

5. Does your state report adjudicated mentally defective/committed persons to the NICS Index?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g)(4).

Reported by Maine State Bureau of Identification

b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

a. If YES, are mental health admissions reported to your agency by an entity other than the applicant?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

If YES to 6.a., please describe.

b. If YES, does the applicant provide information concerning their mental health status at the time of application?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

c. If YES, is there any check or validation of the information provided by the applicant?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

YES	NO
-----	----

If YES to 6.c., please describe.

--

d. If YES, please provide your state statute reference.

--

e. If NO, does your state have any process for prohibiting the use or possession of firearms based on a voluntary mental health admission to a treatment facility?

--	--

If YES to 6.e., please describe.

--

7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the consideration of mental health and the use or possession of firearms?

<input checked="" type="checkbox"/>	
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a. If YES, please describe.

We can use police reports if they show the applicant has a mental health problem indicating they are a danger to themselves or others.
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8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses the concern of mental health treatment and the possession of firearms?

	<input checked="" type="checkbox"/>
--	-------------------------------------

a. If YES, what is the effective date?

--

b. If YES, please provide a copy of the legislative language.

Person completing the survey:

Michael Johnston
NameSergeant
Titlemichael.p.johnston@maine.gov
EmailMaine State Police
AgencyAugusta, ME 04333
City, State, Zip code207-624-7212
Telephone



ILLINOIS STATE POLICE
Concealed Carry Licensing Annual Survey

1. Does your state issue a Concealed Carry License?

YES	NO
<input checked="" type="checkbox"/>	<input type="checkbox"/>

a. If YES, for what length of time is the license issued?

6 years

b. At what age can an individual apply for a Concealed Carry License?

21

2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g)(4))?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

5. Does your state report adjudicated mentally defective/committed persons to the NICS Index?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g)(4).

Batches of records are periodically manually uploaded to NICS through LEEP.

b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

a. If YES, are mental health admissions reported to your agency by an entity other than the applicant?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

If YES to 6.a., please describe.

b. If YES, does the applicant provide information concerning their mental health status at the time of application?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

c. If YES, is there any check or validation of the information provided by the applicant?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

YES	NO
-----	----

If YES to 6.c., please describe.

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d. If YES, please provide your state statute reference.

--

e. If NO, does your state have any process for prohibiting the use or possession of firearms based on a voluntary mental health admission to a treatment facility?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
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If YES to 6.e., please describe.

--

7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the consideration of mental health and the use or possession of firearms?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
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a. If YES, please describe.

<p>Applicants who are committed by the court pursuant to MGL c. 123, ss. 35 or 36C to any hospital or institution for mental illness are not eligible to apply for a firearms license unless granted a petition for relief by the court. Applicants with commitments for reasons other than by the sections noted above are also disqualified unless after five years from the date of confinement, the applicant submits an affidavit of a licensed physician or clinical psychologist attesting that the applicant is not disabled from possessing a firearm. See MGL c. 140, ss. 129B(iii) and 131(iii).</p>

8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses the concern of mental health treatment and the possession of firearms?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
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a. If YES, what is the effective date?

--

b. If YES, please provide a copy of the legislative language.

Person completing the survey:**Michaela Dunne**

Name

Manager of Law Enforcement & Justice Services

Title

Email

Dept. of Criminal Justice Information Services

Agency

200 Arlington St., Suite 220, Chelsea, MA 02150

City, State, Zip code

(617) 660-4682

Telephone



ILLINOIS STATE POLICE
Concealed Carry Licensing Annual Survey

YES	NO
<input checked="" type="checkbox"/>	<input type="checkbox"/>

1. Does your state issue a Concealed Carry License?

a. If YES, for what length of time is the license issued?

Expires on Applicant's birthday, not less than 4 years or more than 5 years after license issued or renewed.

b. At what age can an individual apply for a Concealed Carry License?

21

2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g)(4))?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

5. Does your state report adjudicated mentally defective/committed persons to the NICS Index?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g)(4).

Orders and dispositions are entered into the Law Enforcement Information Network (LEIN). Such entries are automatically forwarded to the National Crime Information Center (NCIC) and the NICS Index.

b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

a. If YES, are mental health admissions reported to your agency by an entity other than the applicant?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

If YES to 6.a., please describe.

--

b. If YES, does the applicant provide information concerning their mental health status at the time of application?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

c. If YES, is there any check or validation of the information provided by the applicant?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

YES NO

If YES to 6.c., please describe.

d. If YES, please provide your state statute reference.

e. If NO, does your state have any process for prohibiting the use or possession of firearms based on a voluntary mental health admission to a treatment facility?

X

If YES to 6.e., please describe.

To be issued a concealed pistol license (CPL), the applicant must file a statement that at the time the application is made, the applicant does not have a diagnosis of a mental illness that includes an assessment that the applicant present a danger to himself or herself or to another. Inability to file this statement would preclude issuance of a CPL. MCL 28.425b(7)(i)

7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the consideration of mental health and the use or possession of firearms?

X

a. If YES, please describe.

In addition to statement required by CPL applicant, a person without a CPL would generally need a license to purchase, carry, possess, or transport a pistol. MCL 28.422. A "license to purchase" a pistol shall not be issued if the issuing agency has probable cause to believe the applicant would be a threat to himself or herself or to other individuals, or would commit an offense with a pistol that would violate the law.

8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses the concern of mental health treatment and the possession of firearms?

X

a. If YES, what is the effective date?

b. If YES, please provide a copy of the legislative language.

Person completing the survey:

Steven G. Beatty

Name

Departmental Specialist

Title

beatty s @ michigan . gov

Email

Michigan State Police

Agency

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City, State, Zip code

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Telephone



ILLINOIS STATE POLICE
Concealed Carry Licensing Annual Survey

1. Does your state issue a Concealed Carry License?

MN issues a Permit to Carry

a. If YES, for what length of time is the license issued?

5 years

b. At what age can an individual apply for a Concealed Carry License?

21

2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License?

X

a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit?

X

3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)?

X

4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g)(4))?

X

5. Does your state report adjudicated mentally defective/committed persons to the NICS Index?

X

a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g)(4).

Electronic transmission w/in 3 business days by MN Courts.

b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit?

X

6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years?

X

a. If YES, are mental health admissions reported to your agency by an entity other than the applicant?

If YES to 6.a., please describe.

b. If YES, does the applicant provide information concerning their mental health status at the time of application?

c. If YES, is there any check or validation of the information provided by the applicant?

If YES to 6.c., please describe.

--

d. If YES, please provide your state statute reference.

--

e. If NO, does your state have any process for prohibiting the use or possession of firearms based on a voluntary mental health admission to a treatment facility?

	X
--	---

If YES to 6.e., please describe.

--

7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the consideration of mental health and the use or possession of firearms?

X	
---	--

a. If YES, please describe.

Local sheriffs must obtain commitment information from the commissioner of human services or as provided by a similar statute from another state, if the information is reasonably available. The information is if a person is or ever has been committed in MN or elsewhere by a judicial determination to a treatment facility.
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8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses the concern of mental health treatment and the possession of firearms?

	X
--	---

a. If YES, what is the effective date?

--

b. If YES, please provide a copy of the legislative language.

Person completing the survey:

Judith M. Strobel

Name

Senior Legal Analyst

Title

Judy.Strobel@state.mn.us

Email

MN Bureau of Criminal Apprehensi

Agency

St. Paul, MN 55106

City, State, Zip code

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Telephone

624.713 CERTAIN PERSONS NOT TO POSSESS FIREARMS.

Subdivision 1. **Ineligible persons.** The following persons shall not be entitled to possess ammunition or a pistol or semiautomatic military-style assault weapon or, except for clause (1), any other firearm:

(1) a person under the age of 18 years except that a person under 18 may possess ammunition designed for use in a firearm that the person may lawfully possess and may carry or possess a pistol or semiautomatic military-style assault weapon (i) in the actual presence or under the direct supervision of the person's parent or guardian, (ii) for the purpose of military drill under the auspices of a legally recognized military organization and under competent supervision, (iii) for the purpose of instruction, competition, or target practice on a firing range approved by the chief of police or county sheriff in whose jurisdiction the range is located and under direct supervision; or (iv) if the person has successfully completed a course designed to teach marksmanship and safety with a pistol or semiautomatic military-style assault weapon and approved by the commissioner of natural resources;

(2) except as otherwise provided in clause (9), a person who has been convicted of, or adjudicated delinquent or convicted as an extended jurisdiction juvenile for committing, in this state or elsewhere, a crime of violence. For purposes of this section, crime of violence includes crimes in other states or jurisdictions which would have been crimes of violence as herein defined if they had been committed in this state;

(3) a person who is or has ever been committed in Minnesota or elsewhere by a judicial determination that the person is mentally ill, developmentally disabled, or mentally ill and dangerous to the public, as defined in section 253B.02, to a treatment facility, or who has ever been found incompetent to stand trial or not guilty by reason of mental illness, unless the person's ability to possess a firearm and ammunition has been restored under subdivision 4;

(4) a person who has been convicted in Minnesota or elsewhere of a misdemeanor or gross misdemeanor violation of chapter 152, unless three years have elapsed since the date of conviction and, during that time, the person has not been convicted of any other such violation of chapter 152 or a similar law of another state; or a person who is or has ever been committed by a judicial determination for treatment for the habitual use of a controlled substance or marijuana, as defined in sections 152.01 and 152.02, unless the person's ability to possess a firearm and ammunition has been restored under subdivision 4;

(5) a person who has been committed to a treatment facility in Minnesota or elsewhere by a judicial determination that the person is chemically dependent as defined in section 253B.02, unless the person has completed treatment or the person's ability to possess a firearm and ammunition has been restored under subdivision 4. Property rights may not be abated but access may be restricted by the courts;

(6) a peace officer who is informally admitted to a treatment facility pursuant to section 253B.04 for chemical dependency, unless the officer possesses a certificate from the head of the treatment facility discharging or provisionally discharging the officer from the treatment facility. Property rights may not be abated but access may be restricted by the courts;

(7) a person, including a person under the jurisdiction of the juvenile court, who has been charged with committing a crime of violence and has been placed in a pretrial diversion program by the court before disposition, until the person has completed the diversion program and the charge of committing the crime of violence has been dismissed;

(8) except as otherwise provided in clause (9), a person who has been convicted in another state of committing an offense similar to the offense described in section 609.224, subdivision 3, against a family or household member or section 609.2242, subdivision 3, unless three years have elapsed since the date of

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conviction and, during that time, the person has not been convicted of any other violation of section 609.224, subdivision 3, or 609.2242, subdivision 3, or a similar law of another state;

(9) a person who has been convicted in this state or elsewhere of assaulting a family or household member and who was found by the court to have used a firearm in any way during commission of the assault is prohibited from possessing any type of firearm or ammunition for the period determined by the sentencing court;

(10) a person who:

(i) has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;

(ii) is a fugitive from justice as a result of having fled from any state to avoid prosecution for a crime or to avoid giving testimony in any criminal proceeding;

(iii) is an unlawful user of any controlled substance as defined in chapter 152;

(iv) has been judicially committed to a treatment facility in Minnesota or elsewhere as a person who is mentally ill, developmentally disabled, or mentally ill and dangerous to the public, as defined in section 253B.02;

(v) is an alien who is illegally or unlawfully in the United States;

(vi) has been discharged from the armed forces of the United States under dishonorable conditions;

(vii) has renounced the person's citizenship having been a citizen of the United States; or

(viii) is disqualified from possessing a firearm under United States Code, title 18, section 922(g)(8) or (9), as amended through March 1, 2014;

(11) a person who has been convicted of the following offenses at the gross misdemeanor level, unless three years have elapsed since the date of conviction and, during that time, the person has not been convicted of any other violation of these sections: section 609.229 (crimes committed for the benefit of a gang); 609.2231, subdivision 4 (assaults motivated by bias); 609.255 (false imprisonment); 609.378 (neglect or endangerment of a child); 609.582, subdivision 4 (burglary in the fourth degree); 609.665 (setting a spring gun); 609.71 (riot); or 609.749 (stalking). For purposes of this paragraph, the specified gross misdemeanor convictions include crimes committed in other states or jurisdictions which would have been gross misdemeanors if conviction occurred in this state;

(12) a person who has been convicted of a violation of section 609.224 if the court determined that the assault was against a family or household member in accordance with section 609.2242, subdivision 8 (domestic assault), unless three years have elapsed since the date of conviction and, during that time, the person has not been convicted of another violation of section 609.224 or a violation of a section listed in clause (11); or

(13) a person who is subject to an order for protection as described in section 260C.201, subdivision 3, paragraph (d), or 518B.01, subdivision 6, paragraph (g).

A person who issues a certificate pursuant to this section in good faith is not liable for damages resulting or arising from the actions or misconduct with a firearm or ammunition committed by the individual who is the subject of the certificate.

The prohibition in this subdivision relating to the possession of firearms other than pistols and semi-automatic military-style assault weapons does not apply retroactively to persons who are prohibited from possessing a pistol or semiautomatic military-style assault weapon under this subdivision before August 1, 1994.

The lifetime prohibition on possessing, receiving, shipping, or transporting firearms and ammunition for persons convicted or adjudicated delinquent of a crime of violence in clause (2), applies only to offenders who are discharged from sentence or court supervision for a crime of violence on or after August 1, 1993.

For purposes of this section, "judicial determination" means a court proceeding pursuant to sections 253B.07 to 253B.09 or a comparable law from another state.

Subd. 1a. Ineligible to receive, ship, transport. A person presently charged with a crime punishable by imprisonment for a term exceeding one year shall not be entitled to receive, ship, or transport any pistol or semiautomatic military-style assault weapon or ammunition designed for use in a pistol or semiautomatic military-style assault weapon. A violation of this subdivision is a gross misdemeanor.

Subd. 2. Penalties. (a) A person named in subdivision 1, clause (1), who possesses ammunition or a pistol or semiautomatic military-style assault weapon in violation of that clause is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

(b) A person named in subdivision 1, clause (2), who possesses any type of firearm or ammunition is guilty of a felony and may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than \$30,000, or both. This paragraph does not apply to any person who has received a relief of disability under United States Code, title 18, section 925, or whose ability to possess firearms and ammunition has been restored under section 609.165, subdivision 1d.

(c) A person named in any other clause of subdivision 1 who possesses any type of firearm or ammunition is guilty of a gross misdemeanor.

Subd. 3. Notice. (a) When a person is convicted of, or adjudicated delinquent or convicted as an extended jurisdiction juvenile for committing, a crime of violence as defined in section 624.712, subdivision 5, the court shall inform the defendant that the defendant is prohibited from possessing ammunition or a pistol or semiautomatic military-style assault weapon for the remainder of the person's lifetime, and that it is a felony offense to violate this prohibition. The failure of the court to provide this information to a defendant does not affect the applicability of the ammunition or pistol or semiautomatic military-style assault weapon possession prohibition or the felony penalty to that defendant.

(b) When a person, including a person under the jurisdiction of the juvenile court, is charged with committing a crime of violence and is placed in a pretrial diversion program by the court before disposition, the court shall inform the defendant that: (1) the defendant is prohibited from possessing a pistol or semiautomatic military-style assault weapon or ammunition designed for use in a pistol or semiautomatic military-style assault weapon until the person has completed the diversion program and the charge of committing a crime of violence has been dismissed; (2) it is a gross misdemeanor offense to violate this prohibition; and (3) if the defendant violates this condition of participation in the diversion program, the charge of committing a crime of violence may be prosecuted. The failure of the court to provide this information to a defendant does not affect the applicability of the ammunition or pistol or semiautomatic military-style assault weapon possession prohibition or the gross misdemeanor penalty to that defendant.

624.713

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(c) A court shall notify a person subject to subdivision 1, clause (3), of the prohibitions described in that clause and those described in United States Code, title 18, sections 922(d)(4) and 922(g)(4).

Subd. 4. Restoration of firearms and ammunition eligibility to civilly committed person; petition authorized. (a) A person who is prohibited from possessing a firearm or ammunition under subdivision 1, due to commitment resulting from a judicial determination that the person is mentally ill, developmentally disabled, mentally ill and dangerous, or chemically dependent, may petition a court to restore the person's ability to possess a firearm or ammunition.

(b) The court may grant the relief sought in paragraph (a) in accordance with the principles of due process if the circumstances regarding the person's disqualifying condition and the person's record and reputation are determined to be such that:

- (1) the person is not likely to act in a manner that is dangerous to public safety; and
- (2) the granting of relief would not be contrary to the public interest.

(c) When determining whether a person has met the requirement of paragraph (b), clause (1), the court may consider evidence from a licensed medical doctor or clinical psychologist that the person is no longer suffering from the disease or condition that caused the disability or that the disease or condition has been successfully treated for a period of three consecutive years.

(d) Review on appeal shall be de novo.

Subd. 5. Provision of firearms background check information. (a) When a court places a person, including a person under the jurisdiction of the juvenile court, who is charged with committing a crime of violence into a pretrial diversion program before disposition, the court must ensure that information regarding the person's placement in that program and the ordered expiration date of that placement is transmitted as soon as practicable to the National Instant Criminal Background Check System. When a person successfully completes or discontinues the program, the prosecuting attorney must also report that fact within 24 hours of receipt to the National Instant Criminal Background Check System.

(b) The court must report the conviction and duration of the firearms disqualification imposed as soon as practicable to the National Instant Criminal Background Check System when a person is convicted of a gross misdemeanor that disqualifies the person from possessing firearms under the following sections:

- (1) 518B.01, subdivision 14;
- (2) 609.224, subdivision 3;
- (3) 609.2242, subdivision 3;
- (4) 609.749, subdivision 8;
- (5) 624.713, subdivision 1, clause (11); or
- (6) 629.715, subdivision 2.

(c) If the court reports a firearms disqualification based on a charge of violating an offense listed in paragraph (b), the court must provide notice of the disposition of the charge to the National Instant Criminal Background Check System within three business days.

History: 1975 c 378 s 3; 1983 c 269 s 2; 1Sp1985 c 9 art 2 s 98; 1986 c 444; 1991 c 279 s 36; 1992 c 537 s 3; 1993 c 326 art 1 s 27; 1993 c 366 s 11; 1994 c 576 s 55,56; 1994 c 636 art 3 s 27,28; 1995 c 259 art 3 s 21; 1996 c 408 art 4 s 15; 2002 c 221 s 48; 2003 c 28 art 3 s 8-10; 2005 c 56 s 1; 2005 c 83 s 1; 2009 c 139 s 2,3; 2010 c 299 s 14; 2013 c 86 art 4 s 8,9; 2014 c 213 s 5; 2015 c 65 art 3 s 26-30

624.714 CARRYING OF WEAPONS WITHOUT PERMIT; PENALTIES.

Subdivision 1. [Repealed, 2003 c 28 art 2 s 35; 2005 c 83 s 1]

Subd. 1a. **Permit required; penalty.** A person, other than a peace officer, as defined in section 626.84, subdivision 1, who carries, holds, or possesses a pistol in a motor vehicle, snowmobile, or boat, or on or about the person's clothes or the person, or otherwise in possession or control in a public place, as defined in section 624.7181, subdivision 1, paragraph (c), without first having obtained a permit to carry the pistol is guilty of a gross misdemeanor. A person who is convicted a second or subsequent time is guilty of a felony.

Subd. 1b. **Display of permit; penalty.** (a) The holder of a permit to carry must have the permit card and a driver's license, state identification card, or other government-issued photo identification in immediate possession at all times when carrying a pistol and must display the permit card and identification document upon lawful demand by a peace officer, as defined in section 626.84, subdivision 1. A violation of this paragraph is a petty misdemeanor. The fine for a first offense must not exceed \$25. Notwithstanding section 609.531, a firearm carried in violation of this paragraph is not subject to forfeiture.

(b) A citation issued for violating paragraph (a) must be dismissed if the person demonstrates, in court or in the office of the arresting officer, that the person was authorized to carry the pistol at the time of the alleged violation.

(c) Upon the request of a peace officer, a permit holder must write a sample signature in the officer's presence to aid in verifying the person's identity.

(d) Upon the request of a peace officer, a permit holder shall disclose to the officer whether or not the permit holder is currently carrying a firearm.

Subd. 2. **Where application made; authority to issue permit; criteria; scope.** (a) Applications by Minnesota residents for permits to carry shall be made to the county sheriff where the applicant resides. Nonresidents, as defined in section 171.01, subdivision 42, may apply to any sheriff.

(b) Unless a sheriff denies a permit under the exception set forth in subdivision 6, paragraph (a), clause (3), a sheriff must issue a permit to an applicant if the person:

- (1) has training in the safe use of a pistol;
- (2) is at least 21 years old and a citizen or a permanent resident of the United States;
- (3) completes an application for a permit;
- (4) is not prohibited from possessing a firearm under the following sections:
 - (i) 518B.01, subdivision 14;
 - (ii) 609.224, subdivision 3;
 - (iii) 609.2242, subdivision 3;
 - (iv) 609.749, subdivision 8;
 - (v) 624.713;
 - (vi) 624.719;
 - (vii) 629.715, subdivision 2;

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(viii) 629.72, subdivision 2; or

(ix) any federal law; and

(5) is not listed in the criminal gang investigative data system under section 299C.091.

(c) A permit to carry a pistol issued or recognized under this section is a state permit and is effective throughout the state.

(d) A sheriff may contract with a police chief to process permit applications under this section. If a sheriff contracts with a police chief, the sheriff remains the issuing authority and the police chief acts as the sheriff's agent. If a sheriff contracts with a police chief, all of the provisions of this section will apply.

Subd. 2a. Training in safe use of a pistol. (a) An applicant must present evidence that the applicant received training in the safe use of a pistol within one year of the date of an original or renewal application. Training may be demonstrated by:

(1) employment as a peace officer in the state of Minnesota within the past year; or

(2) completion of a firearms safety or training course providing basic training in the safe use of a pistol and conducted by a certified instructor.

(b) Basic training must include:

(1) instruction in the fundamentals of pistol use;

(2) successful completion of an actual shooting qualification exercise; and

(3) instruction in the fundamental legal aspects of pistol possession, carry, and use, including self-defense and the restrictions on the use of deadly force.

(c) The certified instructor must issue a certificate to a person who has completed a firearms safety or training course described in paragraph (b). The certificate must be signed by the instructor and attest that the person attended and completed the course.

(d) A person qualifies as a certified instructor if the person is certified as a firearms instructor within the past five years by an organization or government entity that has been approved by the Department of Public Safety in accordance with the department's standards.

(e) A sheriff must accept the training described in this subdivision as meeting the requirement in subdivision 2, paragraph (b), for training in the safe use of a pistol. A sheriff may also accept other satisfactory evidence of training in the safe use of a pistol.

Subd. 3. Form and contents of application. (a) Applications for permits to carry must be an official, standardized application form, adopted under section 624.7151, and must set forth in writing only the following information:

(1) the applicant's name, residence, telephone number, if any, and driver's license number or state identification card number;

(2) the applicant's sex, date of birth, height, weight, and color of eyes and hair, and distinguishing physical characteristics, if any;

(3) the township or statutory city or home rule charter city, and county, of all Minnesota residences of the applicant in the last five years, though not including specific addresses;

(4) the township or city, county, and state of all non-Minnesota residences of the applicant in the last five years, though not including specific addresses;

(5) a statement that the applicant authorizes the release to the sheriff of commitment information about the applicant maintained by the commissioner of human services or any similar agency or department of another state where the applicant has resided, to the extent that the information relates to the applicant's eligibility to possess a firearm; and

(6) a statement by the applicant that, to the best of the applicant's knowledge and belief, the applicant is not prohibited by law from possessing a firearm.

(b) The statement under paragraph (a), clause (5), must comply with any applicable requirements of Code of Federal Regulations, title 42, sections 2.31 to 2.35, with respect to consent to disclosure of alcohol or drug abuse patient records.

(c) An applicant must submit to the sheriff an application packet consisting only of the following items:

(1) a completed application form, signed and dated by the applicant;

(2) an accurate photocopy of the certificate described in subdivision 2a, paragraph (c), that is submitted as the applicant's evidence of training in the safe use of a pistol; and

(3) an accurate photocopy of the applicant's current driver's license, state identification card, or the photo page of the applicant's passport.

(d) In addition to the other application materials, a person who is otherwise ineligible for a permit due to a criminal conviction but who has obtained a pardon or expungement setting aside the conviction, sealing the conviction, or otherwise restoring applicable rights, must submit a copy of the relevant order.

(e) Applications must be submitted in person.

(f) The sheriff may charge a new application processing fee in an amount not to exceed the actual and reasonable direct cost of processing the application or \$100, whichever is less. Of this amount, \$10 must be submitted to the commissioner and deposited into the general fund.

(g) This subdivision prescribes the complete and exclusive set of items an applicant is required to submit in order to apply for a new or renewal permit to carry. The applicant must not be asked or required to submit, voluntarily or involuntarily, any information, fees, or documentation beyond that specifically required by this subdivision. This paragraph does not apply to alternate training evidence accepted by the sheriff under subdivision 2a, paragraph (d).

(h) Forms for new and renewal applications must be available at all sheriffs' offices and the commissioner must make the forms available on the Internet.

(i) Application forms must clearly display a notice that a permit, if granted, is void and must be immediately returned to the sheriff if the permit holder is or becomes prohibited by law from possessing a firearm. The notice must list the applicable state criminal offenses and civil categories that prohibit a person from possessing a firearm.

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(j) Upon receipt of an application packet and any required fee, the sheriff must provide a signed receipt indicating the date of submission.

Subd. 4. **Investigation.** (a) The sheriff must check, by means of electronic data transfer, criminal records, histories, and warrant information on each applicant through the Minnesota Crime Information System and the National Instant Criminal Background Check System. The sheriff shall also make a reasonable effort to check other available and relevant federal, state, or local record-keeping systems. The sheriff must obtain commitment information from the commissioner of human services as provided in section 245.041 or, if the information is reasonably available, as provided by a similar statute from another state.

(b) When an application for a permit is filed under this section, the sheriff must notify the chief of police, if any, of the municipality where the applicant resides. The police chief may provide the sheriff with any information relevant to the issuance of the permit.

(c) The sheriff must conduct a background check by means of electronic data transfer on a permit holder through the Minnesota Crime Information System and the National Instant Criminal Background Check System at least yearly to ensure continuing eligibility. The sheriff may also conduct additional background checks by means of electronic data transfer on a permit holder at any time during the period that a permit is in effect.

Subd. 5. [Repealed, 2003 c 28 art 2 s 35; 2005 c 83 s 1]

Subd. 6. **Granting and denial of permits.** (a) The sheriff must, within 30 days after the date of receipt of the application packet described in subdivision 3:

(1) issue the permit to carry;

(2) deny the application for a permit to carry solely on the grounds that the applicant failed to qualify under the criteria described in subdivision 2, paragraph (b); or

(3) deny the application on the grounds that there exists a substantial likelihood that the applicant is a danger to self or the public if authorized to carry a pistol under a permit.

(b) Failure of the sheriff to notify the applicant of the denial of the application within 30 days after the date of receipt of the application packet constitutes issuance of the permit to carry and the sheriff must promptly fulfill the requirements under paragraph (c). To deny the application, the sheriff must provide the applicant with written notification and the specific factual basis justifying the denial under paragraph (a), clause (2) or (3), including the source of the factual basis. The sheriff must inform the applicant of the applicant's right to submit, within 20 business days, any additional documentation relating to the propriety of the denial. Upon receiving any additional documentation, the sheriff must reconsider the denial and inform the applicant within 15 business days of the result of the reconsideration. Any denial after reconsideration must be in the same form and substance as the original denial and must specifically address any continued deficiencies in light of the additional documentation submitted by the applicant. The applicant must be informed of the right to seek de novo review of the denial as provided in subdivision 12.

(c) Upon issuing a permit to carry, the sheriff must provide a laminated permit card to the applicant by first class mail unless personal delivery has been made. Within five business days, the sheriff must submit the information specified in subdivision 7, paragraph (a), to the commissioner for inclusion solely in the database required under subdivision 15, paragraph (a). The sheriff must transmit the information in a manner and format prescribed by the commissioner.

(d) Within five business days of learning that a permit to carry has been suspended or revoked, the sheriff must submit information to the commissioner regarding the suspension or revocation for inclusion solely in the databases required or permitted under subdivision 15.

(e) Notwithstanding paragraphs (a) and (b), the sheriff may suspend the application process if a charge is pending against the applicant that, if resulting in conviction, will prohibit the applicant from possessing a firearm.

Subd. 7. Permit card contents; expiration; renewal. (a) Permits to carry must be on an official, standardized permit card adopted by the commissioner, containing only the name, residence, and driver's license number or state identification card number of the permit holder, if any.

(b) The permit card must also identify the issuing sheriff and state the expiration date of the permit. The permit card must clearly display a notice that a permit, if granted, is void and must be immediately returned to the sheriff if the permit holder becomes prohibited by law from possessing a firearm.

(c) A permit to carry a pistol issued under this section expires five years after the date of issue. It may be renewed in the same manner and under the same criteria which the original permit was obtained, subject to the following procedures:

(1) no earlier than 90 days prior to the expiration date on the permit, the permit holder may renew the permit by submitting to the appropriate sheriff the application packet described in subdivision 3 and a renewal processing fee not to exceed the actual and reasonable direct cost of processing the application or \$75, whichever is less. Of this amount, \$5 must be submitted to the commissioner and deposited into the general fund. The sheriff must process the renewal application in accordance with subdivisions 4 and 6; and

(2) a permit holder who submits a renewal application packet after the expiration date of the permit, but within 30 days after expiration, may renew the permit as provided in clause (1) by paying an additional late fee of \$10.

(d) The renewal permit is effective beginning on the expiration date of the prior permit to carry.

Subd. 7a. Change of address; loss or destruction of permit. (a) Within 30 days after changing permanent address, or within 30 days of having lost or destroyed the permit card, the permit holder must notify the issuing sheriff of the change, loss, or destruction. Failure to provide notification as required by this subdivision is a petty misdemeanor. The fine for a first offense must not exceed \$25. Notwithstanding section 609.531, a firearm carried in violation of this paragraph is not subject to forfeiture.

(b) After notice is given under paragraph (a), a permit holder may obtain a replacement permit card by paying \$10 to the sheriff. The request for a replacement permit card must be made on an official, standardized application adopted for this purpose under section 624.7151, and, except in the case of an address change, must include a notarized statement that the permit card has been lost or destroyed.

Subd. 8. Permit to carry voided. (a) The permit to carry is void at the time that the holder becomes prohibited by law from possessing a firearm, in which event the holder must return the permit card to the issuing sheriff within five business days after the holder knows or should know that the holder is a prohibited person. If the sheriff has knowledge that a permit is void under this paragraph, the sheriff must give notice to the permit holder in writing in the same manner as a denial. Failure of the holder to return the permit

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within the five days is a gross misdemeanor unless the court finds that the circumstances or the physical or mental condition of the permit holder prevented the holder from complying with the return requirement.

(b) When a permit holder is convicted of an offense that prohibits the permit holder from possessing a firearm, the court must take possession of the permit, if it is available, and send it to the issuing sheriff.

(c) The sheriff of the county where the application was submitted, or of the county of the permit holder's current residence, may file a petition with the district court therein, for an order revoking a permit to carry on the grounds set forth in subdivision 6, paragraph (a), clause (3). An order shall be issued only if the sheriff meets the burden of proof and criteria set forth in subdivision 12. If the court denies the petition, the court must award the permit holder reasonable costs and expenses, including attorney fees.

(d) A permit revocation must be promptly reported to the issuing sheriff.

Subd. 8a. **Prosecutor's duty.** Whenever a person is charged with an offense that would, upon conviction, prohibit the person from possessing a firearm, the prosecuting attorney must ascertain whether the person is a permit holder under this section. If the person is a permit holder, the prosecutor must notify the issuing sheriff that the person has been charged with a prohibiting offense. The prosecutor must also notify the sheriff of the final disposition of the case.

Subd. 9. **Carrying pistols about one's premises or for purposes of repair, target practice.** A permit to carry is not required of a person:

(1) to keep or carry about the person's place of business, dwelling house, premises or on land possessed by the person a pistol;

(2) to carry a pistol from a place of purchase to the person's dwelling house or place of business, or from the person's dwelling house or place of business to or from a place where repairing is done, to have the pistol repaired;

(3) to carry a pistol between the person's dwelling house and place of business;

(4) to carry a pistol in the woods or fields or upon the waters of this state for the purpose of hunting or of target shooting in a safe area; or

(5) to transport a pistol in a motor vehicle, snowmobile or boat if the pistol is unloaded, contained in a closed and fastened case, gunbox, or securely tied package.

Subd. 10. **False representations.** A person who gives or causes to be given any false material information in applying for a permit to carry, knowing or having reason to know the information is false, is guilty of a gross misdemeanor.

Subd. 11. **No limit on number of pistols.** A person shall not be restricted as to the number of pistols the person may carry.

Subd. 11a. **Emergency issuance of permits.** A sheriff may immediately issue an emergency permit to a person if the sheriff determines that the person is in an emergency situation that may constitute an immediate risk to the safety of the person or someone residing in the person's household. A person seeking an emergency permit must complete an application form and must sign an affidavit describing the emergency situation. An emergency permit applicant does not need to provide evidence of training. An emergency permit is valid for 30 days, may not be renewed, and may be revoked without a hearing. No fee may be

charged for an emergency permit. An emergency permit holder may seek a regular permit under subdivision 3 and is subject to the other applicable provisions of this section.

Subd. 12. Hearing upon denial or revocation. (a) Any person aggrieved by denial or revocation of a permit to carry may appeal by petition to the district court having jurisdiction over the county or municipality where the application was submitted. The petition must list the sheriff as the respondent. The district court must hold a hearing at the earliest practicable date and in any event no later than 60 days following the filing of the petition for review. The court may not grant or deny any relief before the completion of the hearing. The record of the hearing must be sealed. The matter must be heard de novo without a jury.

(b) The court must issue written findings of fact and conclusions of law regarding the issues submitted by the parties. The court must issue its writ of mandamus directing that the permit be issued and order other appropriate relief unless the sheriff establishes by clear and convincing evidence:

(1) that the applicant is disqualified under the criteria described in subdivision 2, paragraph (b); or

(2) that there exists a substantial likelihood that the applicant is a danger to self or the public if authorized to carry a pistol under a permit. Incidents of alleged criminal misconduct that are not investigated and documented may not be considered.

(c) If an applicant is denied a permit on the grounds that the applicant is listed in the criminal gang investigative data system under section 299C.091, the person may challenge the denial, after disclosure under court supervision of the reason for that listing, based on grounds that the person:

(1) was erroneously identified as a person in the data system;

(2) was improperly included in the data system according to the criteria outlined in section 299C.091, subdivision 2, paragraph (b); or

(3) has demonstrably withdrawn from the activities and associations that led to inclusion in the data system.

(d) If the court grants a petition brought under paragraph (a), the court must award the applicant or permit holder reasonable costs and expenses including attorney fees.

Subd. 12a. Suspension as condition of release. The district court may order suspension of the application process for a permit or suspend the permit of a permit holder as a condition of release pursuant to the same criteria as the surrender of firearms under section 629.715. A permit suspension must be promptly reported to the issuing sheriff. If the permit holder has an out-of-state permit recognized under subdivision 16, the court must promptly report the suspension to the commissioner for inclusion solely in the database under subdivision 15, paragraph (a).

Subd. 13. Exemptions; adult correctional facility officers. A permit to carry a pistol is not required of any officer of a state adult correctional facility when on guard duty or otherwise engaged in an assigned duty.

Subd. 14. Records. (a) A sheriff must not maintain records or data collected, made, or held under this section concerning any applicant or permit holder that are not necessary under this section to support a permit that is outstanding or eligible for renewal under subdivision 7, paragraph (b). Notwithstanding section 138.163, sheriffs must completely purge all files and databases by March 1 of each year to delete

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all information collected under this section concerning all persons who are no longer current permit holders or currently eligible to renew their permit.

(b) Paragraph (a) does not apply to records or data concerning an applicant or permit holder who has had a permit denied or revoked under the criteria established in subdivision 2, paragraph (b), clause (1), or subdivision 6, paragraph (a), clause (3), for a period of six years from the date of the denial or revocation.

Subd. 15. **Commissioner; contracts; database.** (a) The commissioner must maintain an automated database of persons authorized to carry pistols under this section that is available 24 hours a day, seven days a week, only to law enforcement agencies, including prosecutors carrying out their duties under subdivision 8a, to verify the validity of a permit.

(b) The commissioner may maintain a separate automated database of denied applications for permits to carry and of revoked permits that is available only to sheriffs performing their duties under this section containing the date of, the statutory basis for, and the initiating agency for any permit application denied or permit revoked for a period of six years from the date of the denial or revocation.

(c) The commissioner may contract with one or more vendors to implement the commissioner's duties under this section.

Subd. 16. **Recognition of permits from other states.** (a) The commissioner must annually establish and publish a list of other states that have laws governing the issuance of permits to carry weapons that are not similar to this section. The list must be available on the Internet. A person holding a carry permit from a state not on the list may use the license or permit in this state subject to the rights, privileges, and requirements of this section.

(b) Notwithstanding paragraph (a), no license or permit from another state is valid in this state if the holder is or becomes prohibited by law from possessing a firearm.

(c) Any sheriff or police chief may file a petition under subdivision 12 seeking an order suspending or revoking an out-of-state permit holder's authority to carry a pistol in this state on the grounds set forth in subdivision 6, paragraph (a), clause (3). An order shall only be issued if the petitioner meets the burden of proof and criteria set forth in subdivision 12. If the court denies the petition, the court must award the permit holder reasonable costs and expenses including attorney fees. The petition may be filed in any county in the state where a person holding a license or permit from another state can be found.

(d) The commissioner must, when necessary, execute reciprocity agreements regarding carry permits with jurisdictions whose carry permits are recognized under paragraph (a).

Subd. 17. **Posting; trespass.** (a) A person carrying a firearm on or about his or her person or clothes under a permit or otherwise who remains at a private establishment knowing that the operator of the establishment or its agent has made a reasonable request that firearms not be brought into the establishment may be ordered to leave the premises. A person who fails to leave when so requested is guilty of a petty misdemeanor. The fine for a first offense must not exceed \$25. Notwithstanding section 609.531, a firearm carried in violation of this subdivision is not subject to forfeiture.

(b) As used in this subdivision, the terms in this paragraph have the meanings given.

(1) "Reasonable request" means a request made under the following circumstances:

(i) the requester has prominently posted a conspicuous sign at every entrance to the establishment containing the following language: "(INDICATE IDENTITY OF OPERATOR) BANS GUNS IN THESE PREMISES."; or

(ii) the requester or the requester's agent personally informs the person that guns are prohibited in the premises and demands compliance.

(2) "Prominently" means readily visible and within four feet laterally of the entrance with the bottom of the sign at a height of four to six feet above the floor.

(3) "Conspicuous" means lettering in black arial typeface at least 1-1/2 inches in height against a bright contrasting background that is at least 187 square inches in area.

(4) "Private establishment" means a building, structure, or portion thereof that is owned, leased, controlled, or operated by a nongovernmental entity for a nongovernmental purpose.

(c) The owner or operator of a private establishment may not prohibit the lawful carry or possession of firearms in a parking facility or parking area.

(d) This subdivision does not apply to private residences. The lawful possessor of a private residence may prohibit firearms, and provide notice thereof, in any lawful manner.

(e) A landlord may not restrict the lawful carry or possession of firearms by tenants or their guests.

(f) Notwithstanding any inconsistent provisions in section 609.605, this subdivision sets forth the exclusive criteria to notify a permit holder when otherwise lawful firearm possession is not allowed in a private establishment and sets forth the exclusive penalty for such activity.

(g) This subdivision does not apply to:

(1) an active licensed peace officer; or

(2) a security guard acting in the course and scope of employment.

Subd. 18. Employers; public colleges and universities. (a) An employer, whether public or private, may establish policies that restrict the carry or possession of firearms by its employees while acting in the course and scope of employment. Employment related civil sanctions may be invoked for a violation.

(b) A public postsecondary institution regulated under chapter 136F or 137 may establish policies that restrict the carry or possession of firearms by its students while on the institution's property. Academic sanctions may be invoked for a violation.

(c) Notwithstanding paragraphs (a) and (b), an employer or a postsecondary institution may not prohibit the lawful carry or possession of firearms in a parking facility or parking area.

Subd. 19. Immunity. Neither a sheriff, police chief, any employee of a sheriff or police chief involved in the permit issuing process, nor any certified instructor is liable for damages resulting or arising from acts with a firearm committed by a permit holder, unless the person had actual knowledge at the time the permit was issued or the instruction was given that the applicant was prohibited by law from possessing a firearm.

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Subd. 20. **Monitoring.** (a) By March 1, 2004, and each year thereafter, the commissioner must report to the legislature on:

(1) the number of permits applied for, issued, suspended, revoked, and denied, further categorized by the age, sex, and zip code of the applicant or permit holder, since the previous submission, and in total;

(2) the number of permits currently valid;

(3) the specific reasons for each suspension, revocation, and denial and the number of reversed, canceled, or corrected actions;

(4) without expressly identifying an applicant, the number of denials or revocations based on the grounds under subdivision 6, paragraph (a), clause (3), the factual basis for each denial or revocation, and the result of an appeal, if any, including the court's findings of fact, conclusions of law, and order;

(5) the number of convictions and types of crimes committed since the previous submission, and in total, by individuals with permits including data as to whether a firearm lawfully carried solely by virtue of a permit was actually used in furtherance of the crime;

(6) to the extent known or determinable, data on the lawful and justifiable use of firearms by permit holders; and

(7) the status of the segregated funds reported to the commissioner under subdivision 21.

(b) Sheriffs and police chiefs must supply the Department of Public Safety with the basic data the department requires to complete the report under paragraph (a). Sheriffs and police chiefs may submit data classified as private to the Department of Public Safety under this paragraph.

(c) Copies of the report under paragraph (a) must be made available to the public at the actual cost of duplication.

(d) Nothing contained in any provision of this section or any other law requires or authorizes the registration, documentation, collection, or providing of serial numbers or other data on firearms or on firearms' owners.

Subd. 21. **Use of fees.** Fees collected by sheriffs under this section and not forwarded to the commissioner must be used only to pay the direct costs of administering this section. Fee money may be used to pay the costs of appeals of prevailing applicants or permit holders under subdivision 8, paragraph (c); subdivision 12, paragraph (e); and subdivision 16, paragraph (c). Fee money may also be used to pay the reasonable costs of the county attorney to represent the sheriff in proceedings under this section. The revenues must be maintained in a segregated fund. Fund balances must be carried over from year to year and do not revert to any other fund. As part of the information supplied under subdivision 20, paragraph (b), by January 31 of each year, a sheriff must report to the commissioner on the sheriff's segregated fund for the preceding calendar year, including information regarding:

(1) nature and amount of revenues;

(2) nature and amount of expenditures; and

(3) nature and amount of balances.

Subd. 22. **Short title; construction; severability.** This section may be cited as the Minnesota Citizens' Personal Protection Act of 2003. The legislature of the state of Minnesota recognizes and declares that the

second amendment of the United States Constitution guarantees the fundamental, individual right to keep and bear arms. The provisions of this section are declared to be necessary to accomplish compelling state interests in regulation of those rights. The terms of this section must be construed according to the compelling state interest test. The invalidation of any provision of this section shall not invalidate any other provision.

Subd. 23. **Exclusivity.** This section sets forth the complete and exclusive criteria and procedures for the issuance of permits to carry and establishes their nature and scope. No sheriff, police chief, governmental unit, government official, government employee, or other person or body acting under color of law or governmental authority may change, modify, or supplement these criteria or procedures, or limit the exercise of a permit to carry.

Subd. 24. **Predatory offenders.** Except when acting under the authority of other law, it is a misdemeanor for a person required to register by section 243.166 to carry a pistol whether or not the carrier possesses a permit to carry issued under this section. If an action prohibited by this subdivision is also a violation of another law, the violation may be prosecuted under either law.

History: 1975 c 378 s 4; 1976 c 269 s 1; 1977 c 349 s 3; 1983 c 264 s 10; 1986 c 444; 1992 c 571 art 15 s 8,9; 1993 c 326 art 1 s 32; 1994 c 618 art 1 s 45,46; 1994 c 636 art 3 s 38-40; 1998 c 254 art 2 s 69; 2003 c 28 art 2 s 4-28,34; 2005 c 83 s 1,3-10; 2009 c 139 s 6; 2015 c 65 art 3 s 32



Alcohol
and Gambling
Enforcement

Bureau of Criminal
Apprehension

Driver
and Vehicle
Services

Emergency
Communication
Networks

Homeland
Security and
Emergency
Management

Minnesota
State Patrol

Office of
Communications

Office of
Justice Programs

Office of
Traffic Safety

State Fire
Marshal

Office of
Pipeline Safety



Bureau of Criminal Apprehension

1430 Maryland Avenue East • Saint Paul, Minnesota 55106-2802
Phone: 651.793.7000 • Fax: 651.793.7001 • TTY: 651.282.6555
<http://bca.dps.mn.gov>

October 14, 2015

RECEIVED

OCT 21 2015

Firearms Services Bureau
Illinois State Police

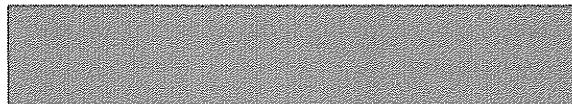
Leo P. Schmitz
Director
Illinois State Police
801 South Seventh Street, Suite 11100-S
Springfield, IL 62703-2487

Dear Mr. Schmitz:

The Minnesota Bureau of Criminal Apprehension (BCA) is in receipt of the Illinois State Police Concealed Carry Licensing Annual Survey request.

On behalf of MN BCA Superintendent Drew Evans, please find enclosed responses to the survey questions and relevant state statutes to meet your November 1 deadline. If you need additional information, please contact me at 651-793-2616 or judy.strobel@state.mn.us. Thank you.

Sincerely,



Judith M. Strobel
Senior Legal Analyst
Minnesota Bureau of Criminal Apprehension

Enclosures



ILLINOIS STATE POLICE
Concealed Carry Licensing Annual Survey

1. Does your state issue a Concealed Carry License?

YES	NO
<input checked="" type="checkbox"/>	<input type="checkbox"/>

a. If YES, for what length of time is the license issued?

5 yrs.

b. At what age can an individual apply for a Concealed Carry License?

21 / military can at 18

2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g)(4))?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

5. Does your state report adjudicated mentally defective/committed persons to the NICS Index?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g)(4).

Adjudicated mentally defective persons are reported to our criminal information center

b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. If YES, are mental health admissions reported to your agency by an entity other than the applicant?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

If YES to 6.a., please describe.

Mental health facilities report this information to our criminal records center

b. If YES, does the applicant provide information concerning their mental health status at the time of application?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

c. If YES, is there any check or validation of the information provided by the applicant?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

If YES to 6.c., please describe.

an applicant would provide a certificate from the psychiatrist's
licensed in this state.

d. If YES, please provide your state statute reference.

MS code 45-9-101 (2h) (2i)

e. If NO, does your state have any process for prohibiting the use or possession of firearms based on a voluntary mental health admission to a treatment facility?

X

If YES to 6.e., please describe.

Refer to MS code 45-9-101 section 2

7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the consideration of mental health and the use or possession of firearms?

N A

a. If YES, please describe.

8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses the concern of mental health treatment and the possession of firearms?

N A

a. If YES, what is the effective date?

b. If YES, please provide a copy of the legislative language.

Person completing the survey:

Det Sgt. Odie Easterling
Name

Director, Firearm Permits
Title

oeasterling@dpr.ms.gov
Email

MS Department of Public Safety
Agency

Jackson MS. 39205
City, State, Zip code

1001 987 1586
Telephone



ILLINOIS STATE POLICE
Concealed Carry Licensing Annual Survey

	YES	NO
1. Does your state issue a Concealed Carry License?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a. If YES, for what length of time is the license issued?	CCW license are valid for five years.	
b. At what age can an individual apply for a Concealed Carry License?	21 years of age.	
2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g)(4))?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Does your state report adjudicated mentally defective/committed persons to the NICS Index?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g)(4).	<div>All reporting is completed by the local sheriff and at his/her discretion.</div>	
b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last <u>five</u> years?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a. If YES, are mental health admissions reported to your agency by an entity other than the applicant?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
If YES to 6.a., please describe.	<div>N/A</div>	
b. If YES, does the applicant provide information concerning their mental health status at the time of application?	<input type="checkbox"/>	<input checked="" type="checkbox"/> N/A
c. If YES, is there any check or validation of the information provided by the applicant?	<input type="checkbox"/>	<input checked="" type="checkbox"/> N/A

YES NO

If YES to 6.c., please describe.

N/A

d. If YES, please provide your state statute reference.

N/A

e. If NO, does your state have any process for prohibiting the use or possession of firearms based on a voluntary mental health admission to a treatment facility?

X

If YES to 6.e., please describe.

If the applicant is currently adjudged mentally incompetent it is unlawful for them to possess a firearm, per RSMo 571.072; though this statute does not specially address "voluntary" admissions.

7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the consideration of mental health and the use or possession of firearms?

X

a. If YES, please describe.

Upon application to the local sheriffs department, the applicant must sign, under oath, that said applicant is not adjudged mentally incompetent at the time of application or 5 years prior to application.

8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses the concern of mental health treatment and the possession of firearms?

X

a. If YES, what is the effective date? N/A

b. If YES, please provide a copy of the legislative language.

Person completing the survey:

Mark S. Dochterman

Name

Lieutenant

Title

mark.dochterman@mshp.dps.mo.gov

Email

Missouri State Highway Patrol

Agency

1510 East Elm St. Jefferson City, MO

65102

City, State, Zip code

(573) 526-6251

Telephone

FACSIMILE COVER SHEET

MISSOURI STATE HIGHWAY PATROL

PUBLIC INFORMATION AND EDUCATION DIVISION

1510 EAST ELM STREET

JEFFERSON CITY, MO 65102

FAX: (573) 526-6383

VOICE: (573) 526-6115

DATE: 10/14 TIME 1421 PAGE 1 OF 4
FROM: M. DOCHTERMAN TELEPHONE NO: 573 526 6251
TO: ISP - FIREARMS SERVICE BUREAU
FACSIMILE NO.: 217 / 782 - 9139

COMMENTS:

CC SURVEY

CONFIDENTIALITY NOTICE:

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ILLINOIS STATE POLICE
Concealed Carry Licensing Annual Survey

OCT 19 2015

Firearms Services Bureau
 Illinois State Police

YES	NO
X	

1. Does your state issue a Concealed Carry License?

a. If YES, for what length of time is the license issued?

5 years

b. At what age can an individual apply for a Concealed Carry License?

21 y.o.

2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License?

X	
---	--

a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit?

	X
--	---

3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)?

	X
--	---

4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g)(4))?

	X
--	---

5. Does your state report adjudicated mentally defective/committed persons to the NICS Index?

X	
---	--

a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g)(4).

Neb Rev Stat 69-2409.01

b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit?

	X
--	---

6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years?

	X
--	---

a. If YES, are mental health admissions reported to your agency by an entity other than the applicant?

--	--

If YES to 6.a., please describe.

b. If YES, does the applicant provide information concerning their mental health status at the time of application?

	X
--	---

c. If YES, is there any check or validation of the information provided by the applicant?

--	--

If YES to 6.c., please describe.

d. If YES, please provide your state statute reference.

e. If NO, does your state have any process for prohibiting the use or possession of firearms based on a voluntary mental health admission to a treatment facility?

☐ YES ☒ NO

If YES to 6.e., please describe.

7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the consideration of mental health and the use or possession of firearms?

☐ YES ☒ NO

a. If YES, please describe.

8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses the concern of mental health treatment and the possession of firearms?

☐ YES ☒ NO

a. If YES, what is the effective date?

b. If YES, please provide a copy of the legislative language.

Person completing the survey:

WENDY A. WUSSOW

Name

Agency Legal Counsel

Title

Wendy.WUSSOW@nebraska.gov

Email

Nebraska State Patrol

Agency

Lincoln, NE 68505

City, State, Zip code

402-479-4062

Telephone



ILLINOIS STATE POLICE
Concealed Carry Licensing Annual Survey

1. Does your state issue a Concealed Carry License?

YES	NO
<input checked="" type="checkbox"/>	<input type="checkbox"/>

a. If YES, for what length of time is the license issued?

Not less than 4 years, expires on birth date

b. At what age can an individual apply for a Concealed Carry License?

No minimum age for NH residents, 18 for non residents

2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g)(4))?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

5. Does your state report adjudicated mentally defective/committed persons to the NICS Index?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g)(4).

No access to in-state records for the 922(g)(4)

b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

a. If YES, are mental health admissions reported to your agency by an entity other than the applicant?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

If YES to 6.a., please describe.

b. If YES, does the applicant provide information concerning their mental health status at the time of application?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

c. If YES, is there any check or validation of the information provided by the applicant?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

If YES to 6.c., please describe.

d. If YES, please provide your state statute reference.

e. If NO, does your state have any process for prohibiting the use or possession of firearms based on a voluntary mental health admission to a treatment facility?

☐

☒

If YES to 6.e., please describe.

7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the consideration of mental health and the use or possession of firearms?

☒

☐

a. If YES, please describe.

"suitability" standard as provided in NH RSA 159:6.

8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses the concern of mental health treatment and the possession of firearms?

☐

☒

a. If YES, what is the effective date?

b. If YES, please provide a copy of the legislative language.

Person completing the survey:

Sean R. Haggerty

Name

Sergeant

Title

Email

NH State Police

Agency

Concord, NH 03305

City, State, Zip code

(603) 223-3873

Telephone

1. Does your state issue a Concealed Carry License?

Case: 17-2998

Document: 7-3

Filed: 11/07/2017

Pages: 318

(402 of 468)

a. If YES, for what length of time is the license issued?

5 years

b. At what age can an individual apply for a Concealed Carry License?

21

2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License?

a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit?

3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)?

4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g)(4))?

5. Does your state report adjudicated mentally defective/committed persons to the NICS Index?

a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g)(4).

The Courts send us the information within 5 business days of the adjudication and we enter it into the NICS index

b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit?

6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years?

a. If YES, are mental health admissions reported to your agency by an entity other than the applicant?

If YES to 6.a., please describe.

b. If YES, does the applicant provide information concerning their mental health status at the time of application?

c. If YES, is there any check or validation of the information provided by the applicant?

Page 1 of 2

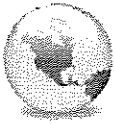
Person completing the survey:

Elizabeth Rasberry
Name

Brady Supervisor
Title

DPS General Services Brady
Agency

Carson App 249115
City, State, Zip code



CCW Annual Survey

Elizabeth Rasberry

to:

'Debbie_Claypool@isp.state.il.us'

11/03/2015 03:13 PM

Cc:

Julie Butler, Julie Ornellas, Michelle Grisamer

Hide Details

From: Elizabeth Rasberry <erasberry@dps.state.nv.us>

To: "'Debbie_Claypool@isp.state.il.us'" <Debbie_Claypool@isp.state.il.us>,

Cc: Julie Butler <jbutler@dps.state.nv.us>, Julie Ornellas <jornellas@dps.state.nv.us>,

Michelle Grisamer <mgrisamer@dps.state.nv.us>

1 Attachment



IL CCW Annual Survey 2015.pdf

Ms. Claypool,

Attached is Nevada's answers to your annual survey. If you have any questions please ask. Thank you and have a good week.

*Liz Rasberry, Brady Supervisor
Department of Public Safety
Point-of-Sale Firearms Program
333 W. Nye Lane, Suite 100
Carson City, NV 89706
Phone: 775-684-6210
Fax: 775-687-3419*



ILLINOIS STATE POLICE
Concealed Carry Licensing Annual Survey

	YES	NO
1. Does your state issue a Concealed Carry License?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a. If YES, for what length of time is the license issued? 2 years		
b. At what age can an individual apply for a Concealed Carry License?	21	
2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g)(4))?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Does your state report adjudicated mentally defective/committed persons to the NICS Index?	<input type="checkbox"/>	<input type="checkbox"/>
a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g)(4). <div style="border: 1px solid black; padding: 10px; margin-top: 5px;"> <p style="font-size: 1.2em;">Yes, The County Adjusters Report to the NICS Index</p> </div>		
b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last <u>five</u> years?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a. If YES, are mental health admissions reported to your agency by an entity other than the applicant?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
If YES to 6.a., please describe. <div style="border: 1px solid black; padding: 10px; margin-top: 5px;"> <p style="font-size: 1.2em;">The County Adjusters</p> </div>		
b. If YES, does the applicant provide information concerning their mental health status at the time of application?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. If YES, is there any check or validation of the information provided by the applicant?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

☒ YES ☐ NO

If YES to 6.c., please describe.

Mental Health Check conducted by
the County Adjusters.

d. If YES, please provide your state statute reference.

NJS 2C:58-4

e. If NO, does your state have any process for prohibiting the use or possession of firearms
based on a voluntary mental health admission to a treatment facility?☐ ☐

If YES to 6.e., please describe.

N/A

7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the
consideration of mental health and the use or possession of firearms?☐ ☐

a. If YES, please describe.

N/A

8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses
the concern of mental health treatment and the possession of firearms?☐ ☒

a. If YES, what is the effective date?

b. If YES, please provide a copy of the legislative language.

Person completing the survey:

Lt Glenn Ross

Name

Unit Head Firearms Inv Unit

Title

Lpp5092@gw.njsp.org

Email

NJSP

Agency

West Trenton, NJ

City, State, Zip code

609-882-2000 Ext 2060

Telephone



ILLINOIS STATE POLICE
Concealed Carry Licensing Annual Survey

YES	NO
<input checked="" type="checkbox"/>	<input type="checkbox"/>

1. Does your state issue a Concealed Carry License?

a. If YES, for what length of time is the license issued?

4 years, 5 years for LEO and Military persons

b. At what age can an individual apply for a Concealed Carry License?

21 years of age

2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g)(4))?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

5. Does your state report adjudicated mentally defective/committed persons to the NICS Index?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g)(4).

NM does electronically send this information to NICS. This is done by the AOC. They send a file to the FBI which the FBI pushes through to NICS.

b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

a. If YES, are mental health admissions reported to your agency by an entity other than the applicant?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

If YES to 6.a., please describe.

b. If YES, does the applicant provide information concerning their mental health status at the time of application?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

c. If YES, is there any check or validation of the information provided by the applicant?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

If YES to 6.c., please describe.

d. If YES, please provide your state statute reference.

e. If NO, does your state have any process for prohibiting the use or possession of firearms based on a voluntary mental health admission to a treatment facility?

☐

☒

If YES to 6.e., please describe.

7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the consideration of mental health and the use or possession of firearms?

☒

☐

a. If YES, please describe.

NMSA 29-19-4(8) An applicant can not have been adjudicated mentally incompetent or committed to a mental institution.

8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses the concern of mental health treatment and the possession of firearms?

☐

☒

a. If YES, what is the effective date?

b. If YES, please provide a copy of the legislative language.

Person completing the survey:

Kathleen Romero

Name

Records Clerk

Title

Email

Department of Public Safety / NM State Police

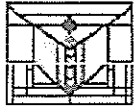
Agency

Santa Fe, NM, 87507

City, State, Zip code

(505) 827-9269

Telephone

**Fw: Information Request from the Illinois State Police New Mexico information**

Kevin Brown to Beth Kiel

05/18/2016 07:34 AM

Kevin Brown
 Firearms Eligibility Analyst
 Illinois State Police - Firearms Services Bureau
 801 S. 7th Street, Ste. 400-M
 Springfield, Illinois 62703
 Office: 217.524.1672
 FAX 217.782.4257

----- Forwarded by Kevin Brown/IISpPolice on 05/18/2016 07:33 AM -----

From: "Romero, Kathleen, DPS" <Kathleen.Romero@state.nm.us>
 To: "Kevin_Brown@isp.state.il.us" <Kevin_Brown@isp.state.il.us>,
 Date: 05/17/2016 04:48 PM
 Subject: RE: Information Request from the Illinois State Police

Good afternoon,

Please see attached.

Have a great day!

**RE: Information Request from the Illinois State Police**

Romero, Kathleen, DPS to Kevin_Brown@isp.state.il.us

05/17/2016 04:48 PM

1 attachment



Illinois Reciprocity.pdf

KRomero

Department of Public Safety
 Adult Care Unit
 1501 S. 7th Street, Ste. 400-M
 Springfield, IL 62703

From: Kevin_Brown@isp.state.il.us [mailto:Kevin_Brown@isp.state.il.us]
Sent: Tuesday, April 19, 2016 1:46 PM
To: Romero, Kathleen, DPS <Kathleen.Romero@state.nm.us>

Subject: Information Request from the Illinois State Police

Attached is the Illinois Concealed Carry survey sent to states in October 2015. We did not receive a response from your state, any assistance would be greatly appreciated.

(See attached file: Substantially Similar Survey 2015 fillable.pdf)

Look forward to hearing from you. Thanks.

Beth Kiel
Illinois State Police
Division of Administration
Firearms Services Bureau
Concealed Carry Unit
801 South 7th St-Suite 400 M
Springfield IL 62704
Office: 217/524-1647
Fax: 217/782-4257



Beth_Kiel@isp.state.il.us Illinois Reciprocity.pdf

NY

1. Does your state issue a Concealed Carry License?
 - YES
 - a. If YES, for what length of time is the license issued?
 - Under the current system, Pistol Permits are good until revoked. Meaning, as long as a permit holder remains in legally and morally good standing for the rest of their life, they can keep their permit. With that being said, The SAFE Act of 2013 mandates that all pistol permits must be renewed every 5 years, and that all current pistol permits must be "re-certified/renewed" by January 1, 2018. Therefore, if you were/are issued a pistol permit in NYS, you must re-certify/renew it by January 1, 2018. However, the process to do so is still in the developmental stages. If an individual currently has a pistol permit, it is "good for life" until he/she is notified by the county in which their pistol permit was issued to them that they are required to re-certify/renew their permit. At that point, it engages that county into the re-certification/renewal process, thus pistol permit holders will be issued permits that expire every 5 years.
 - b. At what age can an individual apply for a Concealed Carry License?
 - 21. If honorably discharged from the military, an individual can be less than 21.
2. Is a National Instant Criminal Background Check System (NICS) background completed at the time of issuance of a Concealed Carry License?
 - YES
 - a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit?
 - YES, once the re-certification/renewal process is instituted.
3. Does your state report Concealed Carry Licenses via National Law Enforcement Teletype System (NLETS)?
 - NO
4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g) (4))?
 - YES
5. Does your state report adjudicated mentally defective/committed persons to the NICS index?
 - YES
 - a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g) (4).
 - When an individual is involuntarily committed for a mental health examination, and subsequently determined to be mentally defective by a qualified Mental Health Practitioner (MHP), the MHP notifies their county's Office of Mental Health of their determination. The County Office of Mental Health then notifies the New York State (NYS) Office of Mental Health (OMH), who submits their list of individuals to the NYS Division of Criminal Justice Services (DCJS). DCJS then compares that list of individuals with the list of individuals who have NYS Concealed Carry License. DCJS then sends that list to the New York State Police-Pistol Permit Bureau (PPB).

personnel then conduct research to vet the information for the purpose of positively determining that the individual who was determined to be mentally defective by a qualified MHP is the same person who has a NYS Pistol Permit. At this point, PPB personnel make notification to the county licensing officer in the county in which that individual's NYS Pistol Permit was issued to him/her so that their permit can be revoked.

- b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit?
- YES
6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years?
- Under certain circumstances. If an individual voluntarily commits themselves for a mental health issue and a mental health practitioner deems that individual to be a threat to themselves or others, then the licensing officer is legally bound to suspend the pistol permit of that individual. However, if the individual voluntarily commits themselves for a mental health evaluation and a mental health practitioner determines that the circumstances surrounding the reason for the voluntary commitment do not create a risk to the well-being of that individual or others, then that person's pistol permit is not suspended.
- a. If YES, are mental health admissions reported to your agency by an entity other than the applicant?
- Yes, they are reported to this agency by the NYS OMH, through the NYS DCJS.
- b. If YES, does the applicant provide information concerning their mental health status at the time of application?
- Yes, legally they are compelled to.
- c. If YES, is there any check or validation of the information provided by the applicant?
- Yes, the information is verified and validated through the course of an extensive background investigation.
- d. If YES, please provide your state statute reference:
- New York State Penal Law § 400.00 (11) (b)
- e. If NO, does your state have any process for prohibiting the use or possession of firearms based on a voluntary mental health admission to a treatment facility?
- DNA
7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the consideration of mental health and the use or possession of firearms?
- DNA
8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses the concern of mental health treatment and the possession of firearms?
- DNA



New York State Police
Counsel's Office
FACSIMILE

From: Dan Moynihan, Assistant Counsel

Fax: (518) 485-1164

Phone: (518) 457-6137

To: Illinois State Police
Firearms Services Bureau

Pages: 4
(including cover)

Date: 10/19/15
Time: 9:00 am

Fax: 217 782-9139

Re: Answers to licensing survey ~~from~~ New York State Police

*Please contact me at 518 457-6137
if you have any questions about our responses.*

This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential, and/or exempt from disclosure under applicable law. If you have received this communication in error, please notify us immediately by telephone and we will make arrangements for its return.



ILLINOIS STATE POLICE
Concealed Carry Licensing Annual Survey

1. Does your state issue a Concealed Carry License?

YES	NO
✓	

a. If YES, for what length of time is the license issued?

5 yrs

b. At what age can an individual apply for a Concealed Carry License?

21

2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License?

✓	
---	--

a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit?

Depends on Sheriff - not automatic

✓	
---	--

3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)?

✓	
---	--

4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g)(4))?

✓	
---	--

5. Does your state report adjudicated mentally defective/committed persons to the NICS Index?

✓	
---	--

a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g)(4).

NCGS § 14-409.43

b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit?

Depends on Sheriff

--	--

6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years?

	✓
--	---

a. If YES, are mental health admissions reported to your agency by an entity other than the applicant?

--	--

If YES to 6.a., please describe.

b. If YES, does the applicant provide information concerning their mental health status at the time of application?

No - request is made of hospital/facility

mm	
----	--

c. If YES, is there any check or validation of the information provided by the applicant?

	mm
--	----

YES	NO
-----	----

If YES to 6.c., please describe.

d. If YES, please provide your state statute reference.

e. If NO, does your state have any process for prohibiting the use or possession of firearms based on a voluntary mental health admission to a treatment facility?

✓	
---	--

If YES to 6.e., please describe.

Sheriff is to request mental health records and evaluate them for prohibitors

7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the consideration of mental health and the use or possession of firearms?

--	--

a. If YES, please describe.

8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses the concern of mental health treatment and the possession of firearms?

	✓
--	---

a. If YES, what is the effective date?

b. If YES, please provide a copy of the legislative language.

Person completing the survey:

Lauren Earnhardt
 Name

Assistant Attorney General
 Title

learnhardt@ncdoj.gov
 Email

NC DOJ
 Agency

PO Box 1629 Raleigh NC 27602
 City, State, Zip code

919 716 6725
 Telephone



ROY COOPER
ATTORNEY GENERAL

State of North Carolina

Department of Justice
PO Box 629
Raleigh, North Carolina
27602

October 2, 2015

Firearms Services Bureau
Illinois State Police
801 South Seventh Street, Suite 400-M
Springfield, Illinois 62703

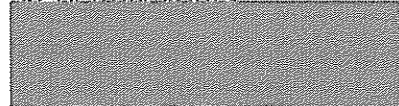
Dear Sir:

Enclosed please find the survey you requested from the State of North Carolina to determine if our residents can apply for non-resident concealed carry permits from the State of Illinois. This survey was completed by Lauren Earnhardt, an Assistant Attorney General, for the Department of Justice, State of North Carolina.

If you need any additional information, please give us a call at (919) 716-6725.

Thank you.

Very truly yours,


Doreen McVeigh
Legal Assistant
Law Enforcement Liaison Section

d

Enclosure



ILLINOIS STATE POLICE
Concealed Carry Licensing Annual Survey

YES	NO
<input checked="" type="checkbox"/>	<input type="checkbox"/>

1. Does your state issue a Concealed Carry License?

a. If YES, for what length of time is the license issued?

5 years

b. At what age can an individual apply for a Concealed Carry License? 21 (class 1)

2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License? ☒

a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit? ☒

3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)? ☒

4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g)(4))? ☒

5. Does your state report adjudicated mentally defective/committed persons to the NICS Index? ☒
a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g)(4).

State court reports to BCI. We forward to NICS.

b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit? ☒

6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years? ☒

a. If YES, are mental health admissions reported to your agency by an entity other than the applicant? ☒

If YES to 6.a., please describe.

Applicants are checked through ND state hospital.
by our office (class 1).

b. If YES, does the applicant provide information concerning their mental health status at the time of application? ☒

c. If YES, is there any check or validation of the information provided by the applicant? ☒

YES	NO
-----	----

If YES to 6.c., please describe.

Release/waiver to verify

d. If YES, please provide your state statute reference.

62.1-04

e. If NO, does your state have any process for prohibiting the use or possession of firearms based on a voluntary mental health admission to a treatment facility?

X	
---	--

If YES to 6.e., please describe.

If deemed a danger to self or others for CWL.

7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the consideration of mental health and the use or possession of firearms?

X	
---	--

a. If YES, please describe.

Court disability
Involuntary committal
Danger to self or others

8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses the concern of mental health treatment and the possession of firearms?

	X
--	---

a. If YES, what is the effective date?

b. If YES, please provide a copy of the legislative language.

Person completing the survey:

Phil Pfennig

Name

Chief Agent

Title

pngpfennig@nd.gov

Email

ND Bureau of Criminal Invest.

Agency

Bismarck ND 58503

City, State, Zip code

701-328-5512

Telephone



FAX COVER SHEET
STATE OF NORTH DAKOTA
SFN 17313 (Rev. 2-2013)

FAX TO:

Name BUREAU CHIEF JESSICA TRAME	
Company ILLINOIS STATE POLICE	
Telephone Number (217) 782-5047	Fax Number (217) 782-9139
Title of Document ILLINOIS STATE POLICE CONCEALED CARRY LICENSING ANNUAL SURVEY	

Date Sent 10/8/2015	Number of Pages Including Cover Sheet 3
------------------------	--

Special Instructions PLEASE FIND THE COMPLETED SURVEY ATTACHED

FAX FROM:

Name SARAH DINIUS		Email Address SDINIUS@ND.GOV	
Agency or Department NORTH DAKOTA OFFICE OF ATTORNEY GENERAL - BCI CONCEALED WEAPON LICENSING UNIT			
Address PO BOX 1054	City BISMARCK	State ND	ZIP Code 58502-1054
Telephone Number (701) 328-5143	Fax Number (701) 328-5510		

If you do not receive all pages, please call the person listed above.

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ILLINOIS STATE POLICE
Concealed Carry Licensing Annual Survey

YES	NO
X	

1. Does your state issue a Concealed Carry License?

a. If YES, for what length of time is the license issued?

5 or 10 years

b. At what age can an individual apply for a Concealed Carry License?

21 years of age

2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License?

	X
--	---

a. Is a secondary / repeated background check conducted after the initial application approval process during the lifetime of the license / permit?

	X
--	---

3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)?

X	
---	--

4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g)(4))?

	X
--	---

5. Does your state report adjudicated mentally defective/committed persons to the NICS index?

X	
---	--

a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g)(4)).

Please see attached statutory provision from the Oklahoma Self-Defense Act, 21 O.S. § 1290.27 - PERSONS MENTALLY INCOMPETENT OR INVOLUNTARILY COMMITTED, which went into effect on July 1, 2015.

b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license / permit?

	X
--	---

6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years?

	X
--	---

a. If YES, are mental health admissions reported to your agency by an entity other than the applicant?

		N/A
--	--	-----

If YES to 6.a., please describe.

N/A

b. If YES, does the applicant provide information concerning their mental health status at the time of application?

		N/A
--	--	-----

c. If YES, is there any check or validation of the information provided by the applicant?

		N/A
--	--	-----

YES	NO
-----	----

If YES to 6.c., please describe.

N/A

d. If YES, please provide your state statute reference.

e. If NO, does your state have any process for prohibiting the use or possession of firearms based on a voluntary mental health admission to a treatment facility?

X	
---	--

If YES to 6.e., please describe.

The Oklahoma Self-Defense Act prohibits persons undergoing mental health treatment, as defined within the Act, from eligibility for a handgun license for 3 years from date of last treatment or from 10 years once the person has been stabilized on medication. This does require a certifying statement from a licensed physician. Please see attached statutory provisions -- 21 O.S. § 1290.10(7) and 1290.11(4) – MANDATORY AND OTHER PRECLUSIONS.

7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the consideration of mental health and the use or possession of firearms?

X	
---	--

a. If YES, please describe.

The Oklahoma Self-Defense Act prohibits persons who have had involuntary mental health commitments from receiving a handgun license. Applicants for a handgun license in Oklahoma are checked against a database maintained by the Oklahoma Department of Mental Health and Substance Abuse Services to ensure that individuals with court ordered commitments are not issued licenses. The statutory provision mandating this check found in 21 O.S. § 1290.12 (A)(12) – is attached. As OSBI uncovers denied applicants with involuntary mental health commitments, NICS has received notifications.

8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses the concern of mental health treatment and the possession of firearms?

	X
--	---

a. If YES, what is the effective date? N/A

b. If YES, please provide a copy of the legislative language.

Person completing the survey:

FELICIA JACKSON

Name

OKLAHOMA STATE BUREAU OF INVESTIGATION

Agency

ADMINISTRATIVE PROGRAMS OFFICER

Title

OKLAHOMA CITY, OK 73116

City, State, Zip code

FELICIA.JACKSON@OSBI.OK.GOV

Email

(405) 879-2534

Telephone

RELEVANT STATUTORY PROVISIONS FROM THE OKLAHOMA SELF-DEFENSE ACT

TITLE 21 Oklahoma Statutes § 1290.10 MANDATORY PRECLUSIONS

In addition to the requirements stated in Section 1290.9 of this title, the conditions stated in this section shall preclude a person from eligibility for a handgun license pursuant to the provisions of the Oklahoma Self-Defense Act. The occurrence of any one of the following conditions shall deny the person the right to have a handgun license pursuant to the provisions of the Oklahoma Self-Defense Act. Prohibited conditions are:

7. Currently undergoing treatment for a mental illness, condition, or disorder. For purposes of this paragraph, "currently undergoing treatment for a mental illness, condition, or disorder" means the person has been diagnosed by a licensed physician as being afflicted with a substantial disorder of thought, mood, perception, psychological orientation, or memory that significantly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life;

TITLE 21 Oklahoma Statutes § 1290.11 OTHER PRECLUSIONS

- A. The following conditions shall preclude a person from being eligible for a handgun license pursuant to the provisions of the Oklahoma Self-Defense Act for a period of time as prescribed in each of the following paragraphs:
 4. The person has previously undergone treatment for a mental illness, condition, or disorder which required medication or supervision as defined by paragraph 7 of Section 1290.10 of this title. The preclusive period shall be three (3) years from the last date of treatment or upon presentation of a certified statement from a licensed physician stating that the person is either no longer disabled by any mental or psychiatric illness, condition, or disorder or that the person has been stabilized on medication for ten (10) years or more;

TITLE 21 Oklahoma Statutes § 1290.12 PROCEDURE FOR APPLICATION

- A. Except as provided in paragraph 11 of this subsection, the procedure for applying for a handgun license and processing the application shall be as follows:
 12. The Oklahoma State Bureau of Investigation shall make a reasonable effort to investigate the information submitted by the applicant and the sheriff, to ascertain whether or not the issuance of a handgun license would be in violation of the provisions of the Oklahoma Self-Defense Act. The investigation by the Bureau of an applicant shall include, but shall not be limited to: a statewide criminal history records search, a national criminal history records search, a Federal Bureau of Investigation fingerprint search, and if applicable, an investigation of medical records or other records or information deemed by the Bureau to be relevant to the application.
 - a. In the course of the investigation by the Bureau, it shall present the name of the applicant along with any known aliases, the address of the applicant and the social security number of the applicant to the Department of Mental Health and Substance Abuse Services. The Department of Mental Health

and Substance Abuse Services shall respond within ten (10) days of receiving such information to the Bureau as follows:

- (1) with a "Yes" answer, if the records of the Department indicate that the person was involuntarily committed to a mental institution in Oklahoma,
- (2) with a "No" answer, if there are no records indicating the name of the person as a person involuntarily committed to a mental institution in Oklahoma, or
- (3) with an "Inconclusive" answer if the records of the Department suggest the applicant may be a formerly committed person. In the case of an inconclusive answer, the Bureau shall ask the applicant whether he or she was involuntarily committed. If the applicant states under penalty of perjury that he or she has not been involuntarily committed, the Bureau shall continue processing the application for a license.
- (4)

TITLE 21 Oklahoma Statutes § 1290.27 PERSONS MENTALLY INCOMPETENT OR INVOLUNTARILY COMMITTED

- A. When a court adjudicates a person mentally incompetent or orders the involuntary commitment of a person due to a mental illness, condition or disorder under the laws of this state by which a person becomes subject to the provisions of Section 922(d)(4) and (g)(4) of Title 18 of the United States Code, the clerk of the court shall forward a certified copy of the order or adjudication to the Federal Bureau of Investigation or its successor agency for the sole purpose of inclusion in the National Instant Criminal Background Check System database and to the Oklahoma State Bureau of Investigation. The clerk of the court shall also notify the person of the prohibitions contained within the provisions of Section 922(d)(4) and (g)(4) of Title 18 of the United States Code, paragraph 3 of Section 1290.10 or paragraph 3 of subsection A of Section 1290.11 of Title 21 of the Oklahoma Statutes.
- B. When a court adjudicates a person mentally incompetent or orders the involuntary commitment of a person due to a mental illness, condition or disorder under the laws of this state by which a person becomes subject to the provisions of Section 922(d)(4) and (g)(4) of Title 18 of the United States Code, paragraph 3 of Section 1290.10 or paragraph 3 of subsection A of Section 1290.11 of Title 21 of the Oklahoma Statutes, or when a person is otherwise disqualified from eligibility for a handgun license under paragraph 6 or 7 of Section 1290.10 of Title 21 of the Oklahoma Statutes or paragraph 4 of subsection A of Section 1290.11 of Title 21 of the Oklahoma Statutes, the person may petition the court in which the adjudication or commitment proceedings occurred or the district court of the county in which the person currently resides to remove the disability.
- C. On filing of the petition, the court shall set a hearing. Not less than thirty (30) days prior to a hearing on the matter, a copy of the petition for relief shall be served upon the district attorney for that county. The court shall receive and consider evidence in a closed hearing.
- D. The court shall receive evidence on and consider the following before granting or denying the petition:
 1. Psychological or psychiatric evidence from the petitioner and in support of the petition;
 2. The circumstances that resulted in the firearm disabilities;
 3. The petitioner's criminal history records provided by the state, if any;

4. The petitioner's mental health records;
 5. The reputation of the petitioner based on character witness statements, testimony or other character evidence;
 6. Whether the petitioner is a danger to self or others;
 7. Changes in the condition or circumstances of the petitioner since the original adjudication of mental incompetency or involuntary commitment for a mental illness, condition or disorder relevant to the relief sought; and
 8. Any other evidence deemed admissible by the court.
- E. The court shall grant the relief requested if the petitioner proves by clear and convincing evidence that:
1. The petitioner is not likely to act in a manner that is dangerous to the public safety; and
 2. Granting the relief requested is not contrary to the public interest.
- F. At the conclusion of the hearing, the court shall issue findings of fact and conclusions of law. A record shall be kept of the proceedings, but shall remain confidential and be disclosed only to a court or the parties. No records of the proceedings pursuant to this subsection shall be open to public inspection except by order of the court or to a person's attorney of record. The petitioner may appeal a denial of the requested relief, and review on appeal shall be de novo.
- G. If the court grants the petition for relief, the original adjudication of mental incompetency or order of involuntary commitment due to a mental illness, condition or disorder of the petitioner is deemed not to have occurred for purposes of applying Section 922(d)(4) and (g)(4) of Title 18 of the United States Code, paragraph 3, 6 or 7 of Section 1290.10, or paragraph 3 or 4 of subsection A of Section 1290.11 of Title 21 of the Oklahoma Statutes.
- H. The clerk of the court shall promptly forward to the Federal Bureau of Investigation or its successor agency for the sole purpose of inclusion in the National Instant Criminal Background Check System database and the Department of Mental Health and Substance Abuse Services and the Oklahoma State Bureau of Investigation, a certified copy of the order granting relief under this section. The Department of Mental Health and Substance Abuse Services and the Oklahoma State Bureau of Investigation shall as soon thereafter as is practicable, but in no case later than ten (10) business days, update, correct, modify, or remove the record of the person in any databases that these agencies use or refer to for the purposes of handgun licensing, or make available to the National Instant Criminal Background Check System and notify the United States Attorney that the basis for such record being made available no longer applies.



ILLINOIS STATE POLICE
Concealed Carry Licensing Annual Survey

1. Does your state issue a Concealed Carry License?

YES	NO
<input checked="" type="checkbox"/>	<input type="checkbox"/>

a. If YES, for what length of time is the license issued?

4 YEARS

b. At what age can an individual apply for a Concealed Carry License?

21

2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g)(4))?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

5. Does your state report adjudicated mentally defective/committed persons to the NICS Index?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g)(4).

THE COURT SHALL ISSUE A COPY OF THE COURT ORDER TO THE SHERIFF OF THE COUNTY WHO WILL THEN ENTER THE INFORMATION INTO THE LAW ENFORCEMENT DATA CENTER. (LEDS)

b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

a. If YES, are mental health admissions reported to your agency by an entity other than the applicant?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

If YES to 6.a., please describe.

--

b. If YES, does the applicant provide information concerning their mental health status at the time of application?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

c. If YES, is there any check or validation of the information provided by the applicant?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

YES NO

If YES to 6.c., please describe.

d. If YES, please provide your state statute reference.

e. If NO, does your state have any process for prohibiting the use or possession of firearms based on a voluntary mental health admission to a treatment facility?

If YES to 6.e., please describe.

7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the consideration of mental health and the use or possession of firearms?

a. If YES, please describe.

Attorney General of Oregon's Office of the Attorney General, 1000 NE Oregon Street, Portland, OR 97232 (503) 226-1000

8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses the concern of mental health treatment and the possession of firearms?

a. If YES, what is the effective date?

IT'S COMING NEXT

b. If YES, please provide a copy of the legislative language.

SESSION. ORS 166.291 w. 11
BE RE-WRITTEN

Person completing the survey:

JOHN BISHOP

Name

EXECUTIVE DIRECTOR

Title

BISHOP@OREGONSHERRIFFS.ORG

Email

OREGON STATE SHERIFFS ASSOC.

Agency

330 HODD STREET SALEM, OR. 97301

City, State, Zip code

(503) 364-4204

Telephone



ILLINOIS STATE POLICE
Concealed Carry Licensing Annual Survey

1. Does your state issue a Concealed Carry License?

YES	NO
<input checked="" type="checkbox"/>	<input type="checkbox"/>

a. If YES, for what length of time is the license issued?

5 Years

b. At what age can an individual apply for a Concealed Carry License?

21

2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License? ☒ ☐

a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit? ☐ ☒

3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)? ☒ ☐

4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g)(4))? ☒ ☐

5. Does your state report adjudicated mentally defective/committed persons to the NICS Index? ☒ ☐

a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g)(4).

Report of such obtained from counties through various means. (secure website, fax, mail, etc.) Once input into system, it is reported real time to NICS Index.

b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit? ☒ ☐

6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years? ☐ ☒

a. If YES, are mental health admissions reported to your agency by an entity other than the applicant? ☐ ☐

If YES to 6.a., please describe.

b. If YES, does the applicant provide information concerning their mental health status at the time of application? ☐ ☐

c. If YES, is there any check or validation of the information provided by the applicant? ☐ ☐

☐ YES ☐ NO

If YES to 6.c., please describe.

d. If YES, please provide your state statute reference.

e. If NO, does your state have any process for prohibiting the use or possession of firearms based on a voluntary mental health admission to a treatment facility?

☐ ☒

If YES to 6.e., please describe.

7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the consideration of mental health and the use or possession of firearms?

☒ ☐

a. If YES, please describe.

According to PA Statute a person who has been adjudicated as an incompetent or who has been involuntarily committed to a mental institution for inpatient care and treatment is prohibited from possession, use, control, sell, transfer, or manufacture of a firearm. Also, if an individual is not of sound mind or whose character and reputation is such that the individual would be likely to act in a manner dangerous to public safety, then they would be prohibited from being licensed to carry concealed in PA.

8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses the concern of mental health treatment and the possession of firearms?

☐ ☒

a. If YES, what is the effective date?

b. If YES, please provide a copy of the legislative language.

Person completing the survey:

Wayne S. Ford

Name

Trooper

Title

wayford@pa.gov

Email

Pennsylvania State Police

Agency

Harrisburg, PA. 17110

City, State, Zip code

(717) 346-3091

Telephone



ILLINOIS STATE POLICE
Concealed Carry Licensing Annual Survey

1. Does your state issue a Concealed Carry License?

YES	NO
X	

a. If YES, for what length of time is the license issued?

5 YEARS

b. At what age can an individual apply for a Concealed Carry License?

21

2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License?

X	
---	--

a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit?

X	
---	--

3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)?

	X
--	---

4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g)(4))?

X	
---	--

5. Does your state report adjudicated mentally defective/committed persons to the NICS Index?

X	
---	--

a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g)(4).

Agency transmits all court orders, which courts are required to submit to the agency, to NICS in accordance with the Brady Act. This process is mandated by S.C. Code Ann. § 23-31-1020.

b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit?

X	
---	--

6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years?

	X
--	---

a. If YES, are mental health admissions reported to your agency by an entity other than the applicant?

N	A
---	---

If YES to 6.a., please describe.

N/A

b. If YES, does the applicant provide information concerning their mental health status at the time of application?

N	A
---	---

c. If YES, is there any check or validation of the information provided by the applicant?

N	A
---	---

If YES to 6.c., please describe.

N/A

d. If YES, please provide your state statute reference.

N/A

e. If NO, does your state have any process for prohibiting the use or possession of firearms based on a voluntary mental health admission to a treatment facility?

☐ X

If YES to 6.e., please describe.

N/A

7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the consideration of mental health and the use or possession of firearms?

☐ X

a. If YES, please describe.

By adjudication only

8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses the concern of mental health treatment and the possession of firearms?

☐ X

a. If YES, what is the effective date? N/A

b. If YES, please provide a copy of the legislative language.

Person completing the survey:

Derrick P. Horton

Name

S.C. Law Enforcement Division (SLED)

Agency

Lieutenant

Title

Columbia, SC 29221

City, State, Zip code

dphorton@sled.sc.gov

Email

803-896-7015

Telephone



ILLINOIS STATE POLICE
Concealed Carry Licensing Annual Survey

- | | |
|-----|----|
| YES | NO |
|-----|----|
1. Does your state issue a Concealed Carry License? *TN Law allows for open or concealed carry with a permit*

X	
---	--
- a. If YES, for what length of time is the license issued? *Prior to 2/1/15 it was for 4 years. After 2/1/15 permit is issued anywhere from 3 to 7 years*
- b. At what age can an individual apply for a Concealed Carry License? 21
2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License?

X	
---	--
- a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit?

X	
---	--
3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)?

Y	
---	--
4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g)(4))?

X	
---	--
5. Does your state report adjudicated mentally defective/committed persons to the NICS Index?

X	
---	--
- a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g)(4).
-
- b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit?

X	
---	--
6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years?

	X
--	---
- a. If YES, are mental health admissions reported to your agency by an entity other than the applicant?

--	--
- If YES to 6.a., please describe.
-
- b. If YES, does the applicant provide information concerning their mental health status at the time of application?

--	--
- c. If YES, is there any check or validation of the information provided by the applicant?

--	--

YES	NO
-----	----

If YES to 6.c., please describe.

d. If YES, please provide your state statute reference.

e. If NO, does your state have any process for prohibiting the use or possession of firearms based on a voluntary mental health admission to a treatment facility?

	X
--	---

If YES to 6.e., please describe.

7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the consideration of mental health and the use or possession of firearms?

	X
--	---

a. If YES, please describe.

8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses the concern of mental health treatment and the possession of firearms?

	X
--	---

a. If YES, what is the effective date?

b. If YES, please provide a copy of the legislative language.

Person completing the survey:

LISA Knight
NameDIRECTOR HANDGUN PROGRAM
TitleLISA.KNIGHT@TN.GOV
EmailDEPARTMENT OF SAFETY
Agency1148 Foster Ave. Nashville TN 37043
City, State, Zip code615-251-5330
Telephone

Handgun Permit Fees

- The cost of the handgun carry permit varies according to the applicant's date of birth and their next age divisible by five (age 30, 35, 40...etc).
- Handgun carry permits will be issued on a three to seven year cycle, based on the applicant's age, and will expire on a birthday that is divisible by five. The renewal fee will still be pro-rated at the same cost of \$12.50 per year.
- Accepted methods of payment for an original handgun carry permit are cash, money order, MasterCard, Visa and Discover Credit Cards. Checks are accepted for a renewal and duplicate handgun carry permits.

Handgun Carry Permit Fees by Years Issued

Number of Years for Permit	Original Cost	Renewal Cost
3	\$102.50	\$37.50
4	\$115.00	\$50.00
5	\$127.50	\$62.50
6	\$140.00	\$75.00
7	\$152.50	\$87.50
Lifetime	\$500.00	N/A

<http://tennessee.gov/safety/article/handgunmain>



FACSIMILE

COMMISSIONER'S OFFICE
312 ROSA L. PARKS AVENUE,
NASHVILLE, TN 37243
PHONE: 615.251.5166 | FAX: 615.253.2091

TO: FIREARMS SERVICES BUREAU FROM: LISA KNIGHT

801 South Seventh Street
Suite 400-M
Springfield, Illinois 62703
217-782-9139

TN Dept. of Safety and Homeland
Security Handgun Unit

615-251-5330

COMPANY: TN DEPARTMENT OF SAFETY & HOMELAND SECURITY DATE: OCTOBER 7, 2015

FAX NUMBER: 532-7516

TOTAL NO. OF PAGES INCLUDING
COVER:

4

RE: SURVEY



ILLINOIS STATE POLICE
Concealed Carry Licensing Annual Survey

YES	NO
<input checked="" type="checkbox"/>	<input type="checkbox"/>

1. Does your state issue a Concealed Carry License?

a. If YES, for what length of time is the license issued?

4 years (5 years for renewals)

b. At what age can an individual apply for a Concealed Carry License?

21 (18 if Active Military)

2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g)(4))?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

5. Does your state report adjudicated mentally defective/committed persons to the NICS Index?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g)(4).

This is usually reported to NICS by the Courts

b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. If YES, are mental health admissions reported to your agency by an entity other than the applicant?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

If YES to 6.a., please describe.

NICS

b. If YES, does the applicant provide information concerning their mental health status at the time of application?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

c. If YES, is there any check or validation of the information provided by the applicant?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

YES	NO
-----	----

If YES to 6.c., please describe.

We forward any information to the Medical Advisory Board for review and final determination of eligibility.

d. If YES, please provide your state statute reference.

GC 411.172 (d)

e. If NO, does your state have any process for prohibiting the use or possession of firearms based on a voluntary mental health admission to a treatment facility?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

If YES to 6.e., please describe.

7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the consideration of mental health and the use or possession of firearms?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

a. If YES, please describe.

8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses the concern of mental health treatment and the possession of firearms?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

a. If YES, what is the effective date?

b. If YES, please provide a copy of the legislative language.

Person completing the survey:

Sherry Wright

Name

Deputy Manager

Title

Sherry.Wright@dps.texas.gov

Email

Texas Dept. Pub Safety

Agency

Austin TX 78752

City, State, Zip code

512 424-7568

Telephone



ILLINOIS STATE POLICE
Concealed Carry Licensing Annual Survey

1. Does your state issue a Concealed Carry License?

YES	NO
<input checked="" type="checkbox"/>	<input type="checkbox"/>

a. If YES, for what length of time is the license issued?

5 years

b. At what age can an individual apply for a Concealed Carry License?

21

2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g)(4))?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

5. Does your state report adjudicated mentally defective/committed persons to the NICS Index?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g)(4).

The courts send it automatically to NICS
--

b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

a. If YES, are mental health admissions reported to your agency by an entity other than the applicant?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

If YES to 6.a., please describe.

--

b. If YES, does the applicant provide information concerning their mental health status at the time of application?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

c. If YES, is there any check or validation of the information provided by the applicant?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

If YES to 6.c., please describe.

d. If YES, please provide your state statute reference.

e. If NO, does your state have any process for prohibiting the use or possession of firearms based on a voluntary mental health admission to a treatment facility?

☒ YES ☐ NO

If YES to 6.e., please describe.

7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the consideration of mental health and the use or possession of firearms?

☒ YES ☐ NO

a. If YES, please describe.

*If they are disqualified according to
18 USC 922 (g)(4)*

8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses the concern of mental health treatment and the possession of firearms?

☐ YES ☒ NO

a. If YES, what is the effective date?

b. If YES, please provide a copy of the legislative language.

Person completing the survey:

Jason Chapman
Name
Firearms Supervisor
Title
Jchapman@utah.gov
Email

DPS/BCI
Agency
Taylorsville, UT 84129
City, State, Zip code
801-965-3810
Telephone



ILLINOIS STATE POLICE
 Concealed Carry Licensing Annual Survey

- | | |
|-----|----|
| YES | NO |
| | ✓ |
1. Does your state issue a Concealed Carry License?
 - a. If YES, for what length of time is the license issued?
 - b. At what age can an individual apply for a Concealed Carry License?
 2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License? *N/A*
 - a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit?
 3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)? *N/A*
 4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g)(4))? *see attach*
 5. Does your state report adjudicated mentally defective/committed persons to the NICS Index? *✓*
 - a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g)(4).

see attachment
 - b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit? *N/A*
 6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years? *✓*
 - a. If YES, are mental health admissions reported to your agency by an entity other than the applicant? *N/A*

If YES to 6.a., please describe.
 - b. If YES, does the applicant provide information concerning their mental health status at the time of application?
 - c. If YES, is there any check or validation of the information provided by the applicant? *✓*

If YES to 6.c., please describe.

d. If YES, please provide your state statute reference.

e. If NO, does your state have any process for prohibiting the use or possession of firearms based on a voluntary mental health admission to a treatment facility?

✓

If YES to 6.e., please describe.

N/A

7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the consideration of mental health and the use or possession of firearms?

a. If YES, please describe.

see attachment

8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses the concern of mental health treatment and the possession of firearms?

a. If YES, what is the effective date?

b. If YES, please provide a copy of the legislative language.

Person completing the survey:

Zachary Chen

Name

Assistant Attorney General

Title

zachary.chen@vermont.gov

Email

Office of the Attorney General

Agency

Montpelier, VT 05609

City, State, Zip code

(802) 828-5512

Telephone

1. Does your state issue a Concealed Carry License?
No.
 - a. If YES, for what length of time is the license issued?
Not applicable.
 - b. At what age can an individual apply for a Concealed Carry License?
Not applicable.
2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License?
Not applicable.
 - a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit?
Not applicable.
3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)?
Not applicable.
4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922(g)(4))?
Where someone has been prohibited from possessing firearms by 18 USC § 922(g)(4), a Vermont statute, 13 V.S.A. § 4825, allows that person to petition the Family Division of the Superior Court for an order to be relieved from the firearms disability imposed by the federal statute.
5. Does your state report adjudicated mentally defective/committed persons to the NICS index?
Yes.
 - a. If YES, please describe your state's collection/reporting process in accordance to 18 USC § 922(g)(4).
13 V.S.A. § 4824 provides that if a trial court presiding over a criminal prosecution finds that a defendant is a person in need of treatment, as defined by 18 V.S.A. § 7101, the Court Administrator must report the defendant's name to NICS. The report shall include only the information sufficient to identify the person, the reason for the report, and a statement that the report is made in accordance with 18 U.S.C. § 922(g)(4).

Chapter 181 of Title 18 provides a distinct procedure in the Family Division of the Superior Court for requiring an individual to undergo involuntary treatment for a mental health issue. 18 V.S.A. § 7617a requires that where the court has issued a hospitalization or other treatment order, the Court Administrator must report the name of the person to NICS. The report shall include only information sufficient to identify the person, the reason for the report, and a statement that the report is made in accordance with 18 U.S.C. § 922(g)(4).

- b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit?
Not applicable, as Vermont does not issue Concealed Carry licenses or permits.
6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years?
No.
- a. If YES, are mental health admissions reported to your agency by an entity other than the applicant?
Not applicable.
If YES to 6.a., please describe.
Not applicable.
- b. If YES, does the applicant provide information concerning their mental health status at the time of application?
Not applicable.
- c. If YES, is there any check or validation of the information provided by the applicant?
Not applicable.
If YES to 6.c., please describe.
Not applicable.
- d. If YES, please provide your state statute reference.
Not applicable.
- e. If NO, does your state have any process for prohibiting the use or possession of firearms based on a voluntary mental health admission to a treatment facility?
No.
If YES to 6.e., please describe.
Not applicable.
7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the consideration of mental health and the use or possession of firearms?
Act 14, passed in 2015, requires the Department of Mental Health to report to the Senate on House Committees on Judiciary, the Senate Committee on Health and Welfare, and the House Committee on Human Services on the establishment of a Vermont version of the New Hampshire Gun Shop Project. The New Hampshire Gun Shop Project is aimed at involving firearm retailers and range owners in suicide prevention efforts. The Vermont report is due on January 31, 2016.
a. If YES, please describe.
See above.
8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses the concern of mental health treatment and the possession of firearms?
See above.
- a. If YES, what is the effective date?
A report is due on January 31, 2015. Otherwise, not applicable.
- b. If YES, please provide a copy of the legislative language.

(a) On or before January 31, 2016, the Department of Mental Health shall report to the Senate and House Committees on Judiciary, the Senate Committee on Health and Welfare, and the House Committee on Human Services on the establishment of a Vermont version of the New Hampshire Gun Shop Project. The Department may satisfy the reporting requirement by providing testimony on the issue to the committees identified in this subsection.

(b) For purposes of the report required by this section, the Department of Mental Health shall consult with:

- (1) the Vermont Suicide Prevention Coalition;
- (2) the Vermont Federation of Sportsmen's Clubs, and other firearms owners organizations;
- (3) gun shop owners and other firearms retailers; and
- (4) any other parties that may assist in preparing the report

VT LEGIS 14 (2015), 2015 Vermont Laws No. 14 (S. 141) § 3.

WILLIAM H. SORRELL
ATTORNEY GENERAL

SUSANNE R. YOUNG
DEPUTY ATTORNEY GENERAL

WILLIAM E. GRIFFIN
CHIEF ASST. ATTORNEY
GENERAL

Document: 7-3

Filed: 11/07/2017

Pages: 318

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<http://www.ago.vermont.gov>



STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER, VT
05609-1001

RECEIVED

OCT 19 2015

Firearms Services Bureau
Illinois State Police

October 9, 2015

Leo P. Schmitz
Director
Illinois State Police
Firearms Services Bureau
801 South Seventh Street, Suite 400-M
Springfield, IL 62703-2487

Dear Director Schmitz:

I am writing in response to your September 28, 2015 letter to Vermont Attorney General Sorrell regarding Illinois non-resident Concealed Carry Licenses. A response to your survey is attached.

There are no licensing or permitting requirements in Vermont law regarding the carrying of firearms whether concealed or otherwise. Legislation enacted this year, Act 14, restricts people convicted of certain violent crimes from possessing firearms; the relevant section of the act has been codified as 13 V.S.A. § 4017. Act 14 also created requirements for courts to report certain individuals with mental health issues to the National Instant Criminal Background Check System. Chapter 85 of the Title 13 of the Vermont Statutes places certain restrictions on the places that firearms may be carried and the circumstances under which possession of a firearm may be a criminal offense. Additionally, 10 V.S.A. § 4705, prohibits the carrying of certain firearms in vehicles under certain circumstances.

Please do not hesitate to contact me if you have any further questions regarding these matters.

Sincerely,

Zachary Chen
Assistant Attorney General

Enc.



ILLINOIS STATE POLICE
Concealed Carry Licensing Annual Survey

YES	NO
<input checked="" type="checkbox"/>	<input type="checkbox"/>

1. Does your state issue a Concealed Carry License?

a. If YES, for what length of time is the license issued?

5 years

b. At what age can an individual apply for a Concealed Carry License?

21

2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g)(4))?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

5. Does your state report adjudicated mentally defective/committed persons to the NICS Index?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g)(4).

Courts report all such adjudications to Virginia State Police who input them into the VSP database. VSP database is accessed by NICS and queried during a NICS check automatically.

b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. If YES, are mental health admissions reported to your agency by an entity other than the applicant?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

If YES to 6.a., please describe.

b. If YES, does the applicant provide information concerning their mental health status at the time of application?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

c. If YES, is there any check or validation of the information provided by the applicant?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

x

If YES to 6.c., please describe.

d. If YES, please provide your state statute reference.

e. If NO, does your state have any process for prohibiting the use or possession of firearms based on a voluntary mental health admission to a treatment facility?

☐

☒

If YES to 6.e., please describe.

There is no systematic way of checking voluntary admissions in Virginia other than self reporting.

7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the consideration of mental health and the use or possession of firearms?

☒

☐

a. If YES, please describe.

All adjudications of Not guilty by reason of insanity, involuntary in and out patient mental health treatment (including voluntary admission following an adjudication), and those adjudicated mentally incompetent or incapacitated are reported to Virginia State Police, prohibited from purchase, possess, or transport of firearms unless restored by a court, and prohibited from concealed carry for at least 5 years even if restored. 18.2-308.1:1, 18.2-308.1:2, and 18.2-308.1:3.

8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses the concern of mental health treatment and the possession of firearms?

☐

☒

a. If YES, what is the effective date?

b. If YES, please provide a copy of the legislative language.

Person completing the survey:

Thomas Lambert

Name

FSGT Attorney

Title

Email

tom.lambert@vsp.virginia.gov

Virginia State Police

Agency

N. Chesterfield VA 23235

City, State, Zip code

(804) 674-2212

Telephone



ILLINOIS STATE POLICE
Concealed Carry Licensing Annual Survey

1. Does your state issue a Concealed Carry License?

YES	NO
✓	

a. If YES, for what length of time is the license issued?

5 years

b. At what age can an individual apply for a Concealed Carry License?

21

2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License?

✓	
---	--

a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit?

	✓
--	---

3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)?

Not required by statute.

	✓
--	---

4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g)(4))?

✓	
---	--

5. Does your state report adjudicated mentally defective/committed persons to the NICS Index?

--	--

a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g)(4).

--

b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit?

--	--

6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years?

	✓
--	---

a. If YES, are mental health admissions reported to your agency by an entity other than the applicant?

--	--

If YES to 6.a., please describe.

--

b. If YES, does the applicant provide information concerning their mental health status at the time of application?

--	--

c. If YES, is there any check or validation of the information provided by the applicant?

--	--

If YES to 6.c., please describe.

--

d. If YES, please provide your state statute reference.

--

e. If NO, does your state have any process for prohibiting the use or possession of firearms based on a voluntary mental health admission to a treatment facility?

	✓
--	---

If YES to 6.e., please describe.

--

7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the consideration of mental health and the use or possession of firearms?

✓	
---	--

a. If YES, please describe.

RCW 9A.1.070, ineligible for CPL if ineligible to possess under RCW 9A.1.040, which states can't possess if involuntarily committed or found not guilty by reason of insanity. Law enforcement required to check NICS, State Patrol Database & Dept. of Social & Health Services electronic databases to verify not ineligible to possess?
--

8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses the concern of mental health treatment and the possession of firearms?

	✓
--	---

a. If YES, what is the effective date?

--

b. If YES, please provide a copy of the legislative language.

Person completing the survey:

R. July Simpson
Name

Assistant Attorney General
Title

Rjuly5@stg.wa.gov
Email

Attorney General of Washington
Agency

Olympia, WA 98504
City, State, Zip code

(360) 534-4850
Telephone



Bob Ferguson
ATTORNEY GENERAL OF WASHINGTON

Licensing & Administrative Law Division
PO Box 40110 • Olympia WA 98504-0110 • (360) 753-2702

October 8, 2015

Leo P. Schmitz
Director
Firearms Services Bureau
801 South 7th Street, Suite 400-M
Springfield, IL 62703

RE: *Concealed Carry License Reciprocity with Illinois*

Dear Mr. Schmitz:

On behalf of the Attorney General Bob Ferguson, thank you for your inquiry survey regarding concealed carry reciprocity with Illinois received October 1, 2015. We have completed your survey, which you will find enclosed.

If you have any questions or concerns, please do not hesitate to contact me. I may be reached at 360-534-4850 or at RJJulyS@atg.wa.gov.

We appreciate your continued assistance in keeping reciprocity requirement records up to date.

Sincerely,

R. July Simpson
Assistant Attorney General
Licensing and Administrative Law Division

RJS:ap



ILLINOIS STATE POLICE
Concealed Carry Licensing Annual Survey

1. Does your state issue a Concealed Carry License?

YES	NO
<input checked="" type="checkbox"/>	<input type="checkbox"/>

a. If YES, for what length of time is the license issued?

5 years	
---------	--

b. At what age can an individual apply for a Concealed Carry License?

21 years	
----------	--

2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g)(4))?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

5. Does your state report adjudicated mentally defective/committed persons to the NICS Index?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g)(4).

See WVa Code § 27-3-1(b)(4) WVa Code § 27-5-4(c)(3)	
--	--

b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

a. If YES, are mental health admissions reported to your agency by an entity other than the applicant?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

If YES to 6.a., please describe.

--	--

b. If YES, does the applicant provide information concerning their mental health status at the time of application?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

c. If YES, is there any check or validation of the information provided by the applicant?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

* Check upon re-newal. See WVa Code § 27-3-1(b)(4) § 27-5-4(c)(3)

* Checked upon re-newal. LAW ENFOR MAY check at a time



State of West Virginia
Office of the Attorney General

Patrick Morrissey
Attorney General

(304) 558-2021
Fax (304) 558-0140

October 28, 2015

Via Facsimile and Mail

Jessica Trame, Bureau Chief
Firearms Services Bureau
Illinois State Police
801 South Seventh Street, Suite 400-M
Springfield, Illinois 62703

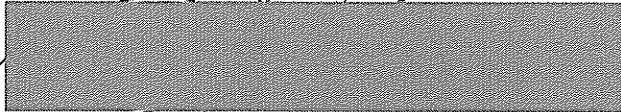
Re: West Virginia's Concealed Handgun Laws

Dear Chief Trame:

Enclosed, please find the completed survey that was submitted to us by the Illinois State Police concerning West Virginia's laws governing concealed handgun licenses.

If you have any further questions or concerns, or need additional assistance in relation to this issue, please do not hesitate to contact me.

Sincerely,


Julie Ann Warren
Assistant Attorney General

Enclosure

RECEIVED

NOV 02 2015

Firearms Services Bureau
Illinois State Police



ILLINOIS STATE POLICE
Concealed Carry Licensing Annual Survey

1. Does your state issue a Concealed Carry License?

YES	NO
<input checked="" type="checkbox"/>	<input type="checkbox"/>

a. If YES, for what length of time is the license issued?

5 years

b. At what age can an individual apply for a Concealed Carry License?

21

2. Is a National Instant Criminal Background Check System (NICS) background check completed at the time of issuance of a Concealed Carry License?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. Is a secondary/repeated background check conducted after the initial application approval process during the lifetime of the license/permit?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

3. Does your state report Concealed Carry Licenses via the National Law Enforcement Teletype System (NLETS)?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

4. Does your state prohibit the use or possession of firearms based on adjudication as a mentally defective person or committed to a mental institution (18 USC 922 (g)(4))?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

5. Does your state report adjudicated mentally defective/committed persons to the NICS Index?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

a. If YES, please describe your state's collection/reporting process in accordance to 18 USC 922 (g)(4).

Wisconsin State Statute 51.20

b. If YES, is there a mechanism within the state to check for the federal mental health prohibitor during the lifetime of the license/permit?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

6. Does your state prohibit the use or possession of firearms based on a voluntary mental health admission within the last five years?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

a. If YES, are mental health admissions reported to your agency by an entity other than the applicant?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

If YES to 6.a., please describe.

b. If YES, does the applicant provide information concerning their mental health status at the time of application?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

c. If YES, is there any check or validation of the information provided by the applicant?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

If YES to 6.c., please describe.

d. If YES, please provide your state statute reference.

e. If NO, does your state have any process for prohibiting the use or possession of firearms based on a voluntary mental health admission to a treatment facility?

☐

☒

If YES to 6.e., please describe.

7. If you answered NO to any of the questions 4-6, does your state have any other procedures for the consideration of mental health and the use or possession of firearms?

☐

☒

a. If YES, please describe.

8. If you answered NO to any of the questions 4-6, is there pending state legislation that addresses the concern of mental health treatment and the possession of firearms?

☐

☒

a. If YES, what is the effective date?

b. If YES, please provide a copy of the legislative language.

Person completing the survey:

Bradley Rollo

Name

Justice Program Supervisor

Title

Email

WI Department of Justice Crime Information Bureau

Agency

Madison, WI 53701

City, State, Zip code

(608) 261-8134

Telephone



ILLINOIS STATE POLICE

FIREARMS SERVICES BUREAU

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[Firearm Projectiles Prohibited & Sentences Imposed by Illinois](#)
[Municipal Ordinances](#)
[Live Scan Locations](#)

We welcome feedback. Submit comments and suggestions to the [CCL site administrator](#) [FOID site administrator](#).

Frequently Asked Questions

DISCLAIMER: Answers provided to the following questions are meant only to give general guidance. The answers do not and are not meant to replace statutory language.

If you have a question regarding the Firearm Owner's Identification Card or the Firearm Concealed Carry Act that is not addressed in these sections, please call (217) 782-7980.

FOID Frequently Asked Questions

CCL Frequently Asked Questions

Assistance to the Public

Steps to Application Process

Business and Property Owners

Where can business owners obtain information about required signage?

Can a business owner post a sign larger than 4 inches by 6 inches?

If a business does not prohibit concealed carry and there is a firearms related incident on its property, is the business liable for the incident?

I am a business owner; however, I rent the real property used to conduct my business. Does the authority rest with the property owner or me to allow/prohibit concealed firearms in my business?

Can a business allow customers to carry concealed, yet prohibit employees from doing it?

Can a business prohibit a weapon from being secured inside a locked vehicle while the vehicle is parked in a business parking lot?

App. 301

"Substantially Similar" means the comparable state regulates who may carry firearms, concealed or otherwise, in public; prohibits all who have involuntary mental health admissions, and those with voluntary admissions within the past 5 years, from carrying firearms, concealed or otherwise, in public; reports denied persons to NICS; and participates in reporting persons authorized to carry firearms, concealed or otherwise, in public through Nlets.

How can I find out if my state's laws are considered "substantially similar?"

The Illinois State Police sent a survey to each state to determine which of them has laws that are substantially similar. Currently, the only states considered to be substantially similar are **Arkansas, Mississippi, Texas and Virginia.**

Note: Not all states have responded to the survey.

If I am a qualifying patient or designated caregiver pursuant to the Compassionate Use of Medical Cannabis Pilot Program Act

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www.isp.state.il.us 245



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Curriculum

If a business or one or more Instructors are teaching from the same curriculum, are all instructors using the curriculum required to submit it to the ISP for approval?

Will instructors have to retain the B27 qualifying target or a digital copy for purposes of retaining a record of each student's performance for 5 years?

Are there any naming convention requirements for curriculum approval?

What is public storage?

App. 302



ILLINOIS STATE POLICE
Division of Administration

Bruce Rauner
Governor

February 8, 2017

Leo P. Schmitz
Director

MS. NANCY B. [REDACTED]

[REDACTED]
Santa Fe, New Mexico 87505

Dear: MS. NANCY B. [REDACTED],

Re: Concealed Carry License

This correspondence is to notify you that, pursuant to 430 ILCS 66/70(a), your Illinois Concealed Carry License has been revoked. Following a review of the laws of your State regarding firearm ownership, possession, and carrying, it has been determined that your state's law are not substantially similar to Illinois. Therefore, you are ineligible for continued licensure within the state of Illinois under this Act.

In accordance with 20 Ill. Adm. Code 1231.110 the Illinois State Police (ISP) surveys all States to determine if they meet the "substantially similar" definition as defined in 20 Ill. Adm. Code 1231.10. This means the comparable state regulates who may carry firearms, concealed or otherwise, in public; prohibits all who have involuntary mental health admissions, and those with voluntary admissions within the past 5 years, from carrying firearms, concealed carry or otherwise, in public, reports denied persons to NICS; and participates in reporting persons authorized to carry firearms, concealed or otherwise, in public through NLETs. As a result of an updated survey, subsequent follow-up with your State regarding their response to the survey, and further review of your State's laws, the Department has determined that your State no longer meets the required standard as defined in 20 Ill. Adm. Code 1231.10.

You may appeal this decision by making a request for review to the Department pursuant to 20 Ill. Adm. Code 1231.170, by logging into your Concealed Carry Application via the Illinois State Police website at www.isp.state.il.us within 60 days after receipt of this notice. For additional information on the appeal process, please refer to the Frequently Asked Questions located on the Concealed Carry page of the Illinois State Police website.

Pursuant to 430 ILCS 66/70(g), you must surrender your license within 48 hours to the ISP at the address listed at the bottom of this correspondence. Failure to surrender your license may result in law enforcement action.

Illinois State Police
Firearms Services Bureau

During the course of the investigation, the Illinois State Police determined that Dickerson and Richardson approached and attempted to rob at gunpoint two individuals sitting in a vehicle in front of a residence on Abbott Street. One of the victims, a 70-year-old Vietnam veteran from St. Louis, pulled his gun and fired on the would-be robbers, striking both Dickerson and Richardson. Dickerson, the driver, was struck in the head; Richardson, the passenger, was struck in the arm and chest. The victim is authorized to possess a concealed firearm in his home state of Missouri.

"Self-defense is an inalienable right in a free society and the right to keep and bear arms is enshrined in the Second Amendment. The courts have consistently recognized the right of a law-abiding citizen to carry a concealed weapon for the purpose of self-defense. This incident yesterday morning is the exact situation where the necessity for this right becomes crystal clear," said Gibbons, who also participates in concealed carry. "I have said it before and I will not waver from this position – I say to all criminals thinking about committing violent crimes in Madison County – if you come here to commit your crimes, do not be surprised if you end up on the wrong side of the concealed weapon of a law-abiding citizen. We will not tolerate violent crime and we will defend ourselves, our loved ones and our community from the harm you intend to bring."

Gibbons also commended the work of the officers with the Illinois State Police and the Venice Police Department for their investigation that led to Friday's charges.

Richardson was transported to SLU Hospital for medical treatment. Upon release, he will be brought to the Madison County Jail in Edwardsville where he will be held without bond. Maximum penalty for first-degree murder is 20-60 years in prison. If convicted, Richardson will be required to serve 100 percent of his sentence.

Comments for this thread are now closed.

3 Comments The Alton Telegraph

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Tyrone Nunnely • 7 days ago

That is a dog gone shame, we had a Marxist that hated our guns and every American who thought about safety for themselves and their families. To prove how much he hated us he released more violent criminals from the federal jails than all the presidents before him.

1 ^ | v • Share



Lee • 7 days ago

Wish we could have this right here in the UK, it is outrageous that we are left to be sitting ducks.

2 ^ | v • Share



Bossman470 Lee • 6 days ago

If this happened in the UK The old man would be charged with murder. As a law abiding citizens we can obtain a permit to carry a concealed firearm. We also have laws like "stand your ground" and "the castle doctrine" We don't have to be victims. Pretty cool huh?

^ | v • Share

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(http://civitas-d.openx.net/w/1.0/rc?ts=1fHJpZD0xNzA4ZDNjNy1iZjVhLTQ3M DQTYmI0MC1YjM5YzNTQwZTh8cnQ9 MTQ4Njc2MTI4OHxhdWlkPTQ2NTgyM XxhdW09RE1JRC5XRUI8YXVwZj1kaXNwb GF5fHhNpZD0xMDAyMzB8cHVlPTYmZl1 NHxwYz1VU0R8cmFpZD1IMTJIYTIwYS1 hNjQwLTQwNTQ0IGI3Ny1mNTQ2NGlW O WY0NDJ8cnM9M XjbD0xfGFpZD01Mzg0 MzEzNz8dD0xfGFzPTMwMHgyNTB8bGI kPTUzNzc4MjQxM3xvaWQ9NTM3MzQ1 MDg1fHA9ODAwMHxwcj04MDAwfGF0Yj0 4MDAwfGFkdj01MzcxMzUwOTZ8YWM9V VNEfHBtPVBSUNJTKcuQ1BNfGJtPUJV WUIORy5HVUF5SQU5URUVEV8k9MVU1FR 09BTHxjaT0xfHvYPWp1R041T3c3VEQ)

POLL

Quiz: Which company is offering its employees and their families free legal advice on immigration issues?

- ☐ Not sure
- ☐ Jetblue
- ☐ Target
- ☐ Starbucks

Next

Conway woman survives knife attack and kidnapping in Illinois



By Frances Watson | Posted: Wed 10:33 PM, Oct 18, 2017 | Updated: Thu 9:49 AM, Oct 19, 2017

CONWAY, Mo. An Ozarks woman is speaking out about personal safety and concealed carry after being attacked by a man with a knife.



Diane McIntire was visiting family in Moline, Illinois when a Sunday afternoon trip to the mall nearly cost her her life.

"Totally not what I expected. I lived there even though it was a big city to me, I was still comfortable there," she says.

She noticed something strange after parking her truck.

"I looked at my mirror and I see this guy. There was my truck and empty space and another car. He was back by the tail end of this car," she explains.

App. 306

She continues gathering her belongings. She has a license to carry a fire arm in Missouri but wasn't sure how the gun laws applied in Illinois. To be safe, she places her pistol in the center compartment of her truck.

She proceeds to get out of her vehicle. That's when the fight for her life begins.

"He rushed from the back of this car and he was right here in my face," she says.

McIntire manages to fend off her attacker. She pushes him off of her and kicks him to the ground.

He gets off the ground and thrusts towards her, stabbing her in the arm with a large knife.

She says, "I felt the burn. I felt the blood gush. I knew I was cut. It still didn't register. All of the sudden he said do you believe in God?"

He is referring to a sticker on the rear window of her truck. She assures him that she does.

The attacker tells her he needs a ride and forces her at knifepoint to drive out to the county. During the ride, he throws her cellphone out of the moving vehicle to make sure she can't call for help.

"I didn't know why we were going where we were going. Although he did tell me, he said, I'm not going to rape you or molest you. You don't got to worry about that. I thought to myself, no I just have to about whether I'm going to stay alive or not," she says.

Nearly 40 minutes into the kidnapping the truck came to a stop at a house. The attacker opens the door and drops the knife. That's when McIntire decides to make her move. She reaches for the gun her attacker doesn't know she has, from a compartment in her vehicle.

"He was getting out over there and I just waited until he bent down and I opened it up and grabbed it out and shut it (compartment door) down and got out. He come around the back. That's when I just, right at his chest right there," she says pointing her fingers in the shape of a gun.

She says the man was surprised.

"He said, I told you I wasn't going to hurt you. I said, dude you are not going to hurt me because I'm going to kill you if you get anywhere near me."

McIntire doesn't shoot. She tells the man to get his things out of her truck and head to the house.

"For two reasons. Number one, I did not want to take a human life if I did not have to. Number two, I wanted to keep my pistol," she says.

She wants everyone, especially women to keep their safety in mind.

"Be aware of your surroundings, to prepared as much as you possible can. Hence, why I have my concealed carry," she explains.


She says her faith helped her survive.

"It was definitely God in me that kept me calm. The holy spirit was definitely right there with me," says McIntire.


She was treated at the hospital for the knife injuries to her arm.

Her attacker is behind bars facing a number of charges including aggravated kidnapping.


This Week's Circulars




FAMILY DOLLAR
Discover something new!
NOW \$10
NOW \$8
NOW \$8



PETSMART
4 DAYS ONLY!
Thursday, Nov. 2 - Sunday, Nov. 5
SAVE 15%* on all merchandise & select services



MATTRESS FIRM
BOGO 50% OFF
FALL ASLEEP SALE
Buy one get one 50% off



Ashley HOMESTORE
VEI
25% OFF + 1 YEAR
20% OFF + 2 YEARS
10% OFF + 5 YEARS
6 YEARS
1 TEMPUR PEDIC

STATE OF ILLINOIS)	Culp v. Madigan, 14-3320
)	
COUNTY OF SANGAMON)	USDC-CDIL

AFFIDAVIT

I, JESSICA TRAME, upon oath, depose and state that I have personal knowledge of the statements contained in this Affidavit; I understand the contents of this affidavit to be true and correct; I am competent to testify; and if called to testify, I would testify as follows:

1. I am employed as the Bureau Chief of the Firearms Services Bureau (FSB or Bureau) of the Illinois State Police (ISP) and have served in that capacity since February 2012.
2. In my capacity as Bureau Chief, I am responsible for administering the Firearm Owner's Identification (FOID) Program, the Firearms Transfer Inquiry Program, and the Concealed Carry Licensing (CCL) Program, and I am familiar with the protocols and procedures of each program.
3. To qualify for a CCL, an Illinois resident must be eligible for and currently have a valid FOID Card. A non-resident does not need a valid FOID card to qualify for a CCL, but the Bureau is responsible for ensuring that a non-resident CCL applicant would meet the eligibility criteria to obtain a FOID card if he or she was an Illinois resident. The goal is to ensure that residents and non-residents are subject to the same substantive requirements to qualify for a CCL.

CCL Application Processing

4. In processing CCL applications, the Bureau performs a background check on each applicant, as required by the FOID Card Act and Firearm Concealed Carry Act.
5. The first phase of the process is a quality check of the application to ensure the application is complete and not missing any required information. This step also includes verification of identity.
6. If there are no errors and the name, address, and other personal identifying information are validated, the application is moved to the eligibility determination phase. A background check is performed, including queries of national systems such as the National Crime Information Center (NCIC), National Instant Criminal Background Check System (NICS), Interstate Identification Index (III), Immigration and Customs Enforcement (ICE), the National Law Enforcement Telecommunications System (NLETS), and Illinois systems, including the Criminal History Record Information (CHRI) System, driver's license or identification systems maintained by the Secretary of State (SOS) and the Computerized Hot Files system, a central online repository for numerous officer and public safety information repositories, maintained by ISP.

7. In addition to the processes described above, the applicant's information is made available to Illinois law enforcement agencies, which may submit an objection to a CCL applicant based upon a reasonable suspicion that the applicant is a danger to himself, herself, or others, or is a threat to public safety. If a law enforcement objection is received, the CCL application is referred to the Concealed Carry Licensing Review Board, which reviews information submitted by the objecting law enforcement agency and the applicant. If the Board determines by a preponderance of the evidence that the applicant poses a danger to himself, herself, or others, or is a threat to public safety, then the Board affirms the objection of the law enforcement agency and notifies the Bureau that the applicant is ineligible for a license.

8. These various background check processes are intended to ensure public safety by identifying persons who are unqualified to carry firearms.

Difficulties Verifying Non-Resident Applicants' Identities

9. As discussed above, the Bureau must verify a CCL applicant's identity while processing the application. For Illinois residents, an applicant's identity is verified through use of the Illinois Secretary of State's (SOS) driver's license or state ID systems to cross-reference the applicant's name, address, photo, and signature.

10. ISP does not have direct access to other states' driver's license, state ID or similar databases. To verify a non-resident's identity, the Bureau must rely on NLETS to check the validity of an out of state driver's license, including personal identifiers of the individual and address. Currently, ISP is not able to receive identifying photographs or signatures from NLETS, but I have been informed by ISP's LEADS Manager that ISP has contracted for development of a system that will allow ISP to access photographs from NLETS. ISP's NLETS Coordinator has reported to me that Arkansas, California, Colorado, Connecticut, District of Columbia, Hawaii, Kansas, North Dakota, New Hampshire, Nevada, New York, Oklahoma, Puerto Rico, South Carolina, Virginia, and Vermont do not currently make images available to NLETS, however.

Difficulties Verifying Non-Resident Criminal History

11. The Bureau must verify that a CCL applicant's criminal history does not render the applicant ineligible for a CCL. For Illinois residents, the Bureau is able to locate criminal history through Illinois' Criminal History Record Inquiry, a system maintained by ISP, from the Computerized Hot Files, and from federal systems.

12. The Firearms Services Bureau does not have direct access to other states' local or state criminal history databases, so the Bureau relies on federal databases to obtain out-of-state criminal history information. Many states provide the federal databases with only a summary of an arrest, which will often be inadequate to assess the applicant's eligibility for a CCL. If a criminal record from the federal database is incomplete, ISP may request a record from the States' Identification Bureau or from the local jurisdiction, but many jurisdictions, including Los

Angeles County, California; Milwaukee County, Wisconsin; and, Jackson County, Mississippi, charge for records, and ISP does not have funds appropriated to pay for the record. As an example, attached hereto as Affidavit Exhibit A is a printout from the III database, a federal criminal history database, dated August 17, 2015, redacted for identifying information, of an individual arrested in Mississippi in 2005 and charged with looting, a felony. The information does not disclose the disposition of the charge. After requesting criminal history information from Mississippi, ISP received a facsimile transmission, attached hereto as Affidavit Exhibit B, refusing ISP's request for lack of fees. Per the Jackson County Circuit Clerk, Pascagoula, MS, a search of the two criminal courts in Jackson County for the ten-year period (the applicant was arrested in 2005) requires a fee of \$20.00. To obtain information from the two civil courts, an additional \$20.00 is required. If ISP needed to search information for a twenty-year period in all four courts, a fee of \$80.00 is required. This also assumes, of course, that the only relevant information regarding the applicant exists in Jackson County, MS, and not other jurisdictions in the state.

13. ISP uses NLETS to determine if the nonresident applicant's state-issued CCL is valid and to check the continued validity of the home-state-issued CCL. NCIC is the mechanism criminal justice agencies use to access over 13 million active records. The NCIC database consists of 21 files, including 14 "persons" files including the National Sex Offender Registry, Foreign Fugitives, Immigration Violations, Mission Persons, Orders of Protection, and Wanted Persons. ISP accesses the NICS Index and the III through the NCIC network. The III is the national criminal history record system. When someone purchases a firearm, NICS verifies the validity of the Federal Firearms Licensed dealer and checks the NICS Index or "denied persons" files for persons prohibited from possessing firearms. All CCL applicants are also checked against the NICS Index.

14. The criminal history information available in federal databases may also be insufficient to determine a non-resident's criminal history because states are not uniform in their reporting of different levels and types of offenses. ISP is unable to obtain accurate and updated information via NLETS and NCIC for those states that do not fully participate in the systems.

15. The information available from the III, a federal criminal history database, also can be very limited. States are not uniform in their reporting of different levels and types of offenses. Only the National Fingerprint File (NFF) provides detailed extracts directly from states' local databases, and as of December 2016, only twenty states participate as in the NFF. According to fbi.gov, those states are: Colorado, Florida, Georgia, Hawaii, Idaho, Iowa, Kansas, Maryland, Minnesota, Missouri, Montana, North Carolina, New Jersey, New York, Ohio, Oklahoma, Oregon, Tennessee, West Virginia, and Wyoming.

Difficulties Verifying Non-Resident Mental Health Information

16. Pursuant to the FOID Act and Firearm Concealed Carry Act, an applicant is not eligible for an Illinois CCL if the applicant has been involuntarily admitted into a mental health facility, adjudicated mentally disabled or has been a patient in a mental health facility within the past five years, regardless of the applicant's state of residence. If an applicant has been a patient in a mental health facility more than 5 years ago, a Mental Health Certification must be provided at the time of the application.

17. Through the Illinois Department of Human Services ("DHS") FOID Mental Health System, the Bureau can readily access information on Illinois mental health facility admissions and determine whether an individual has been involuntarily admitted into a mental health facility in Illinois or has been a patient in a mental health facility in Illinois within the past five years or more.

18. The DHS FOID Mental Health System contains no records of out-of-state mental health facility admissions. Further, ISP does not have access to other states' mental health facility admissions databases, if any exist.

19. In my experience as the Bureau Chief of the FSB, I am aware that the federal databases do not contain the voluntary mental health admission information necessary to determine whether an applicant was a patient in a mental health facility. Also, information concerning involuntary mental health admissions or mental disability adjudications is limited.

20. To search for mental health prohibitors for nonresidents, ISP is limited to information available through the NICS Index. NICS contains some information regarding individuals prohibited from firearm possession for mental health reasons under 18 U.S.C. § 922(g)(4). Some states report to NICS only limited information on formal mental health adjudications. NICS does not provide any information on voluntary mental health admissions.

Difficulties Obtaining Updated Non-Resident Information to Revoke a CCL

21. On a daily basis, all resident CCL holders are checked against the Illinois CHRI and DHS Mental Health Systems (by virtue of their FOID Card) for any new prohibitors (conditions that would disqualify a person from holding a FOID Card or CCL). All CCL holders, resident and nonresident, are checked against the federal databases on a quarterly basis.

22. Illinois Physicians or qualified examiners, Illinois Law Enforcement Officials, and Illinois School Administrators are required by law to report persons that may be a clear and present danger to themselves or others. Even if out-of-state personnel have reporting requirements in their own states, the ISP does not receive reports from out-of-state physicians, qualified examiners, law enforcement officials, or school administrators concerning out-of-state

persons presenting a clear and present danger. Similarly, daily checks of the DHS Mental Health Systems do not reveal information concerning persons treated in other states.

23. Illinois Circuit Clerks are required by statute to report to ISP persons who have been adjudicated as mentally disabled or persons who have had a finding for an involuntary admittance to a mental health facility. I am aware of no other state that is required to, or does, report such cases to the ISP.

24. DHS must report to the ISP information collected pertaining to mental health treatment admissions, either voluntary or involuntary, as well as reports of patients with intellectual or developmental disabilities, or who have been deemed to be a clear and present danger. The purpose of this reporting is to determine if the patient is disqualified under state or federal law from possessing firearms. Out-of-state mental health facilities are not required by their states to report admissions or persons presenting a clear and present danger to DHS or to the ISP, and do not do so unless ISP makes a request for that information. Many out-of-state mental health entities do not provide this information even after an ISP request.

25. Access to the types of information described in the Illinois databases allows the Bureau to thoroughly screen for and actively monitor various issues that may be a basis to deny or revoke a FOID or CCL card. ISP's lack of access to this type of data held by other states would make it virtually impossible to effectively conduct this same level of screening and monitoring for nonresident CCL applicants.

Substantially Similar Surveys

26. In 2013, ISP sent surveys to each of the 49 other states and to the District of Columbia requesting information regarding their regulation of firearms use and reporting and tracking mechanisms relative to criminal activity and mental health issues. In 2014, ISP sent a second survey to those states that did not respond to the first survey.

27. True and correct copies of the various states' responses to the 2013 survey and the response of the District of Columbia received by the ISP are attached hereto as Affidavit Exhibit C. Based on the states' responses to the survey, ISP created a summary, a true and correct copy of which is attached hereto as Affidavit Exhibit D. As noted in the summary, Colorado, Maine, Maryland, Massachusetts, Nevada, Pennsylvania, and Rhode Island did not respond to the ISP's 2013 or 2014 requests for information.

28. The Illinois Administrative Code requires that the Department post on its website a list of all states determined to be substantially similar. 20 Ill. Admin. Code 1231.1109(b). Of those states responding to the 2013 survey, only Hawaii, New Mexico, South Carolina, and Virginia were listed on the Department's website as having laws, similar to Illinois, regulating who may carry firearms in public, reported persons authorized to carry through the NLETS, reported denied persons through the NICS, prohibited persons voluntarily admitted to a mental

health facility in the last five years from possessing or using firearms, and prohibited persons involuntarily admitted to mental health facilities from possessing or using firearms.

29. In 2015, ISP again sent surveys to each of the 49 other states and to the District of Columbia requesting information regarding their regulation of firearms use and reporting and tracking mechanisms relative to criminal activity and mental health issues. My staff telephoned states that did not respond to the 2015 survey to follow up on the status of the states' responses.

30. True and correct copies of the various states' responses to the 2015 survey are attached hereto as Affidavit Exhibit E. Colorado and Maryland again did not respond to the 2015 survey. Although Maine, Massachusetts, Nevada, and Pennsylvania did not submit responses to the 2013 or 2014 requests for information, they did submit responses to the 2015 survey. The Department's website does not currently reflect the responses to the 2015 survey, but I have been notified that it will be updated in the coming weeks.

31. If the Court required ISP to accept nonresident applications from states that lack reporting and eligibility requirements similar to Illinois, the background check process would be jeopardized because ISP is unable to verify those nonresidents' credentials to the same standards as Illinois residents are held. The Bureau does not have the time or resources to properly research their credentials. The Firearm Concealed Carry Act requires ISP to either approve or deny an application within as few as 90 days from the date received, subject to certain exceptions. Requests to other states for information on specific individuals can take a long time to be completed, compromising timely processing of applications. Further, if ISP were required to accept all nonresident applications, individuals from states without substantially similar gun laws could not be held to the same monitoring standards necessary to ensure continued eligibility due to the lack of, and inability to obtain—either at all or in a timely manner—, information concerning those nonresidents.

FURTHER AFFIANT SAYETH NOT.

s/ Jessica L. Trame

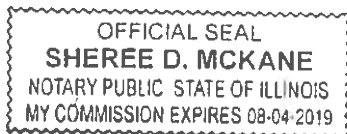
Subscribed and sworn to before me

this 13 day of January, 2017.

JESSICA L. TRAME

s/ Sheree D. McKane

Notary Public



STATE OF ILLINOIS

)

Culp v. Madigan, 14-3320

)

COUNTY OF SANGAMON

)

USDC-CDIL

AFFIDAVIT

I, JESSICA TRAME, upon oath, depose and state that I have personal knowledge of the statements contained in this Affidavit; I understand the contents of this affidavit to be true and correct; I am competent to testify; and if called to testify, I would testify as follows:

1. I am employed as the Bureau Chief of the Firearms Services Bureau (FSB or Bureau) of the Illinois State Police (ISP) and have served in that capacity since February 2012.

2. In my capacity as Bureau Chief, I am responsible for administering the Firearm Owner's Identification (FOID) Program, the Firearms Transfer Inquiry Program, and the Concealed Carry Licensing (CCL) Program, and I am familiar with the protocols and procedures of each program.

3. In a previous affidavit I signed January 13, 2017, I attested that, as of that date, only Hawaii, New Mexico, South Carolina, and Virginia were listed on the Department's website as having laws, substantially similar to Illinois, regulating who may carry firearms in public. *See* 20 Ill. Admin. Code 1231.110(b). I further attested that the Illinois State Police had received responses by the various jurisdictions to a 2015 survey but that the Department's website did not yet reflect those responses.

4. The Illinois State Police has since reviewed responses to the 2015 survey and, based on those responses, has determined that Arkansas, Mississippi, Texas, and Virginia meet the requirements listed in 20 Ill. Admin. Code 1231.10 to constitute having "substantially similar" laws. Hawaii, New Mexico, and South Carolina have been determined to no longer meet those requirements, based on the 2015 survey responses. Accordingly, the Department's website has been updated to reflect Arkansas, Mississippi, Texas, and Virginia are deemed "substantially similar." *See* 20 Ill. Admin. Code 1231.110(b).

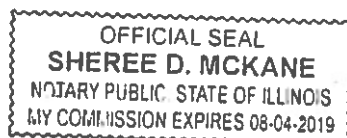
FURTHER AFFIANT SAYETH NOT.**s/Jessica Trame**

Subscribed and sworn to before me

JESSICA TRAME

this 17 day of February, 2017**s/ Sheree D. McKane**

Notary Public

**EXHIBIT 1**

**CERTIFICATE OF SERVICE****Certificate of Service When All Case Participants Are CM/ECF Participants**

I hereby certify that on November 7, 2017, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Seventh Circuit by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

s/ David G. Sigale

**CERTIFICATE OF SERVICE****Certificate of Service When Not All Case Participants Are CM/ECF Participants**

I hereby certify that on _____, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Seventh Circuit by using the CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

I further certify that some of the participants in the case are not CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third-party commercial carrier for delivery within 3 calendar days, to the following non-CM/ECF participants:

counsel / party:

address:

s/ _____