

Illinois State Police File Emergency Rule Change To Broaden The Use Of Clear And Present Danger Reports In FOID Card Applications

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SPRINGFIELD - The Illinois State Police (ISP), under the direction of Governor Pritzker, submitted an emergency rule change to the Illinois Secretary of State's Office implementing broader use of clear and present danger reports that can bar applicants from receiving a Firearm Owners Identification (FOID) card or revoke a current FOID card. The rule change allows for the use and maintenance of historic clear and present

danger information even if the subject was not actively seeking or holding a FOID card at the time a Clear and Present Danger report was made and allows for use of these reports in possible future evaluations.

Since 2013, administrative rules have unnecessarily limited and complicated the ability of the Illinois State Police to consider Clear and Present Danger information over time. For example, the former administrative rule required a Clear and Present Danger to be “impending”, “imminent”, “substantial” or “significant.” Clear and Present Danger under state law however is more broadly defined requiring “physical or verbal behavior, such as violent, suicidal, or assaultive threats, actions, or other behavior...” This emergency rule will now allow the Illinois State Police to consider a broader range of information by simply applying the statutory definition of Clear and Present Danger. These emergency rules also will clarify ISP’s authority to use and retain Clear and Present Danger reports to the fullest extent allowed by state and federal law.

“For the sake of public safety, any FOID applicant with prior clear and present danger information needs to have that considered when having their application processed,” said Governor JB Pritzker. “These changes will immediately allow ISP to see a fuller picture of an applicant’s history and keep the people of Illinois safe from those who should not be in possession of firearms. I want to thank the members of the Joint Committee and Director Kelly for taking up this important issue and protecting Illinoisans.”

“These modifications to administrative law will immediately give the ISP the legal authority to consider more evidence when determining whether to issue or revoke a FOID card and will strengthen the ISP’s ability to keep firearms out of the hands of dangerous individuals,” said Illinois State Police Director Brendan Kelly.

Emergency rules may be submitted to the Secretary of State for consideration by the Joint Committee on Administrative Rules (JCAR) when an agency determines a threat to public interest, safety, or welfare requires rules to be adopted in less time than would be needed to complete the full proposed rule process. Emergency rules go into effect within ten days of filing but remain in effect for no more than 150 days. The Illinois State Police plans to submit these changes under the JCAR proposed rule process as well, with the intention of making these amendments permanent.

Clear and present danger reports are made by physicians, clinical psychologists, qualified examiners, school administrators, and law enforcement. This law is distinct from the Firearms Restraining Order. The Firearms Restraining Order is a court ordered restriction on firearms possession. Clear and Present Danger status is only one of many factors that can result in the revocation and denial of a FOID card. Other factors can include criminal records, mental health prohibitors, and other orders of protection.

