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STATE OF WISCONSIN

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CHIEF JUDGE DIRECTIVE 13-06

DATE: March 28, 2013

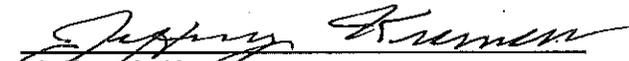
TO: All Judges, All Court Commissioners, District Court Administrator, Deputy District Court Administrator, County Executive, Clerk of Circuit Court, Corporation Counsel, Sheriff, District Attorney, City Attorney, Public Defender, Court Coordinators, Managing Court Reporter, IMSD, Legal Resource Center, Facilities Management, CCAP, Press

FROM: Chief Judge Jeffrey A. Kremers

RE: FIREARMS SURRENDER PROTOCOL

Effective for all Petitions for an Injunction filed on or after April 1, 2013:

IT IS HEREBY DIRECTED that, the attached firearms surrender protocol shall apply to all injunctions that are issued in Milwaukee County that include a provision prohibiting the respondent from possessing a firearm.


Jeffrey A. Kremers
Chief Judge

JAK: dla

FIREARMS SURRENDER HEARING PROCEDURES FOR CLERKS **MILWAUKEE COUNTY CIRCUIT COURT**

These procedures should be used in conjunction with the "Temporary Restraining Orders and Injunctions" procedures.

Receiving a Petition for Temporary Restraining Order ("TRO")

When a domestic abuse, child abuse, or harassment injunction is filed, Sojourner Family Peace Center will:

- Provide the petitioner with the following two forms and explain that these forms must be served on the respondent with the Petition for TRO and the TRO and Notice of Injunction Hearing:
 1. *Information for Respondents Regarding the Surrender and Return of Firearms (CV-804V)*
 2. *Respondent's Statement of Possession of Firearms (CV-800V)*
- Provide the petitioner with the *Petitioner's Statement of Inventory of Possession of Firearms (CV-801V)* and explain that the petitioner can fill out the form and bring it to the injunction hearing if he/she wishes to provide it to the court. It should be made clear that the petitioner is **not** required to complete the form.
- Sojourner also will instruct the petitioner that if an injunction is granted and the respondent is ordered to surrender firearms, the respondent may petition the court and request the return of firearms after the injunction is vacated or expires. Sojourner will ask the petitioner if he/she would like to be notified if the respondent makes that request. If the answer is yes, Sojourner will notify the clerk who will enter the information in CCAP (see below).

When a domestic abuse, child abuse, or harassment injunction is filed, the Clerk of Courts will:

- Open a case in CCAP and schedule an injunction hearing.
- If Sojourner indicates that the petitioner wants to be notified of the respondent's request for return of firearms, get the petitioner's address and enter it into CCAP. (Petitioner's addresses are automatically confidential in CCAP for these types of cases.) Make a note of the petitioner's notification request using the "NOTES" court record event and enter "Victim Notification" into the text field. The clerk should plan to check for this notification request if the respondent petitions for a return of firearms.

Injunction Hearing

At the injunction hearing, if the court grants a domestic abuse, child abuse, or harassment (with a firearms prohibition) injunction, the clerk will:

- Prepare for the judge's signature an *Order for Respondent to Surrender Firearms (CV-803V)*. The clerk shall schedule the Hearing for Failure to Surrender on the duty judge's (civil/family) calendar exactly one week after the issuance of the injunction;
- File/date stamp the *Order for Respondent to Surrender Firearms* and enter it into CCAP using the "OR" (Order) court record event. Type the full name of the order in the text field of the "OR" court record event;
- Enter the Hearing for Failure to Surrender Firearms date into CCAP using the "HE" (Hearing) schedule activity code;
- If the respondent was not present at the injunction hearing, send notice of the Hearing for Failure to Surrender Firearms. (A copy of the Notice of Hearing will also be given to the MCSJ to serve on the respondent along with the injunction).
- File/date stamp the *Respondent's Statement of Possession of Firearms (CV-800V)* and enter it into CCAP using the "OP" (Other papers) court record event. Type the full name of the form in the text field of the "OP" court record event; (ALSO LIST THE NUMBER OF FIREARMS from this form in CCAP).
- If the respondent surrenders firearms to a third party, and if that third party was present at the injunction hearing, file/date stamp the original *Notice of Firearms Possession Penalties (CV-432)* and enter it into CCAP using the "NFPP" (Notice of firearms possession penalties) court record event. The third party should receive a copy of the document at the hearing;
- If provided at the injunction hearing, file/date stamp the *Petitioner's Statement of Inventory of Possession of Firearms (CV-801V)* and enter it into CCAP using the "OP" (Other papers) court record event. Type the full name of the form in the text field of the "OP" court record event.

In the time between the injunction hearing and the Hearing for Failure to Surrender Firearms, if the respondent surrenders his/her firearms TO THE SHERIFF'S DEPARTMENT and files the "Milwaukee County Sheriff's Receipt for Surrendered Firearms Form," the clerk will:

- File/date stamp the "**Milwaukee County Sheriff's Receipt for Surrendered Firearms Form,**" and enter it into CCAP using the "OP" (Other papers) court record event. Type the full name of the proof in the text field of the "OP" court record event;
- Remove the Hearing for Failure to Surrender Firearms from CCAP.

Hearing for Failure to Surrender Firearms ("Hearing")

- The respondent must appear at the Hearing for Failure to Surrender Firearms and you must not cancel the hearing in any of the following situations:
 - The respondent failed to appear at the injunction hearing, there is no signed *Respondent's Statement of Possession of Firearms (CV-800V)*, and the court has determined that there is some evidence that Respondent has a gun.
 - The respondent failed to surrender his/her firearms within 48 hours of the injunction hearing;
 - The respondent surrendered his/her firearms within 48 hours of the injunction hearing, but there was no "**Milwaukee County Sheriff's Receipt for Surrendered Firearms Form,**" filed;
 - The third party to whom the respondent wishes to surrender his/her firearms did not attend the injunction hearing. The respondent and third party must attend the Hearing.

If the respondent appears at the Failure to Surrender Firearms Hearing and the judge approves the surrender, **the clerk will:**

- File/date stamp the proof of surrender and enter it into CCAP using the "OP" (Other papers) court record event. Type the full name of the proof in the text field of the "OP" court record event;
- Provide original proof of surrender to the Respondent for his/her record and for proof to petition for return after the injunction ends.
- If the respondent surrenders firearms to a third party, and if that third party was present at the Hearing, file/date stamp the original *Notice of Firearms Possession Penalties (CV-432)* and enter it into CCAP using the "NFPP" (Notice of firearms possession penalties) court record event. The third party should receive a copy of the document at the hearing.

There are certain situations where an arrest warrant may be issued for the respondent. If that occurs, follow your local arrest warrant procedure.

Return of Firearms

A party seeking the return of a firearm upon the expiration of a domestic abuse, child abuse or harassment injunction shall file with the FCC (i) a Supreme Court Form CV 433 Petition to Return Firearm(s) and (ii) a receipt for the firearm(s) issued by the authority to which it was surrendered."

Inform the Respondent that a family court commissioner will review the request and determine whether return is appropriate. The respondent will either receive a signed Order for Return of Firearms in the mail or a notice of Hearing for Return of Firearms which the respondent should attend.

The Clerk of Court shall prepare and send to the Sheriff an Order to the Sheriff for Firearms Record Check (CV 434) (Room 209SB Criminal Investigation Unit). The Sheriff's Department shall complete the form and return it to the FCC within 5 business days.

The Clerk of Court will review the court record for the *NOTES* court record event to see if the petitioner wanted notification of the respondent's request for return of firearms. If the petitioner requested to be notified, send the petitioner the *Right to Object to Return of Firearms (CV-802V)*. The petitioner needs to be notified that the Objection must be returned within 5 business days. If the petitioner submits any written objections, file/date stamp the response and enter it into CCAP using the *OP (Other papers)* court record event. Make sure the court is aware of any objections filed so it can use the information when determining whether the firearms should be returned.

If the firearms record check from the Sheriff's Department does not indicate a reason why the firearms should not be returned and the petitioner has not filed an objection, the court should sign the Order for Return of Firearms.

IF the firearms record check indicates a reason why the respondent should not possess firearms and/or the petitioner files a notice of objection, the clerk shall schedule a hearing within 15 days on the family court commissioner's calendar and give notice of the hearing to the respondent and petitioner.

At the hearing, the FCC will review CV 434, CV 802 and hear objections from the petitioner, if any. The FCC will then complete the Order Concerning Return of Firearms. (CV 435) if appropriate. The Clerk of Court will then send a copy to Respondent, Petitioner, and to the Sheriff.

If the Commissioner denies the request for return of firearms and the Respondent objects, or if the Commissioner orders the return of firearms and the Petitioner objects, the Civil Duty Judge will hear the de novo review.

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