

Information for Respondents Regarding the Surrender and Return of Firearms

To read the statutes this guide relies upon, please see the following:

- Wisconsin law: §§813.12 – 813.125 and 813.1285, Wisconsin Statutes
- Federal law: 18 U.S.C. Section 922(g)(8) and (9)

Would you like a copy of the forms listed in this guide?

- The forms are available at <http://www.wicourts.gov/forms1/circuit.htm>.
- Click on the link for “Civil” and then on the link for “all civil forms.”

Make sure to check your county’s local rules.

Some counties may have forms or rules that are specific to that county. Check the Wisconsin State Bar’s website or talk to your county’s Clerk of Court for local rules.

<http://www.wisbar.org/directories/courtrules/pages/circuit-court-rules.aspx>

Will I have to surrender my firearms?

Yes, IF the judge or commissioner does any of the following:

- Grants a domestic abuse injunction against you.
- Grants a child abuse injunction against you.
- Grants an individual at risk injunction against you and orders the surrender of firearms.
- Grants a harassment injunction against you and orders the surrender of firearms.

I have access to a firearm, but it is not mine. Do I still need to disclose it?

- **Yes.** The law applies to firearms that you actually own AND those in your possession. If you have access to a firearm, you should disclose this information to the judge or commissioner.
- If you surrender a firearm that does not belong to you, the owner may petition the court for its return. There will be a hearing and if the owner proves he/she owns the firearm, the court will order that the firearm be returned to that person.

Who can I surrender my firearms to?

- The sheriff (either of the county where you live or the county this court case is in).
- Another person (a.k.a. “third party”) you request AND who is approved of by the judge or commissioner.
 - This person will need to come to the injunction hearing or the Firearm Surrender Hearing with you and speak to the judge or commissioner.
 - In some counties, even if you want to want to surrender your firearms to another person, you may have to first surrender your firearms to the sheriff. If the person comes to court for the injunction or Firearm Surrender Hearing and the court approves him/her, then that person may be able to pick up the firearms from the sheriff.

What happens now?

Note: Lines that begin with indicates something that you need to do.

1. There will be an injunction hearing.
 - Attached is the Respondent's Statement of Possession of Firearms (CV-800).
 Complete this form and bring it with you to the injunction hearing.
 - At the hearing, the judge or commissioner will decide whether to grant an injunction against you.
2. If an injunction is granted, the judge or commissioner may decide that you need to surrender your firearms.
 - If the judge or commissioner grants a **domestic abuse** or **child abuse** injunction against you, you will be **AUTOMATICALLY** prohibited from possessing firearms and will be required to surrender any firearms that you own or possess.
 - If the judge or commissioner grants an **individual at risk** or **harassment** injunction against you, the court **MAY** prohibit you from possessing firearms if the court determines that you may use a firearm to cause physical harm to another or to endanger public safety. If the court prohibits you from possessing firearms, you will be ordered to surrender any firearms you own or possess.
 - If the court prohibits you from possessing firearms and finds that you own or possess firearms, the judge or commissioner will fill out an Order for to Surrender Firearms and Notice of Firearm Surrender Hearing (CV-803) form.
 - The judge or commissioner will ask you questions about each firearm and your intentions for how to surrender each firearm.
3. If the judge or commissioner orders you to surrender your firearms, you must do so within 48 hours (or sooner pursuant to the court order) of the injunction hearing. Possessing firearms for any reason other than surrender may result in criminal penalties being brought against you.

I want to surrender my firearms to the sheriff.

- Unless the court has instructed otherwise, call the sheriff and set up a time for firearm surrender.
 - The sheriff will fill out a receipt for each firearm that you surrender, which will include the firearm's manufacturer, model number, and serial number.
 - Both you and the sheriff will sign each receipt. The sheriff will keep the original receipt and give you two copies.
- File one of the copies of the receipt(s) with the clerk of court before the Firearm Surrender Hearing.

I want to surrender my firearms to a person I choose and who is approved by the judge or commissioner.

- That person must be present at the injunction hearing or the Firearm Surrender Hearing.
 - The judge or commissioner will tell the person about the responsibilities and potential penalties associated with being a third party who agrees to take firearms. The judge or commissioner will give him/her a copy of the Notice of

Firearms Possession Penalties (CV-432).

- In some counties, even if you want to surrender to another party, you may be required to surrender your firearms to the sheriff first. If the court approves the third party, the third party may be able to pick the firearms up from the sheriff.

I received an Order to Surrender Firearms and Notice of Firearm Surrender Hearing (CV-803) OR the Notice of Firearm Surrender Hearing (Respondent Not Present at Injunction Hearing) (CV-802) form that says that there is a Firearm Surrender Hearing scheduled. Do I need to go to this hearing?

Please read this section carefully.

If you are required to appear at the Firearms Surrender Hearing and you fail to do so, the judge or commissioner may issue a warrant for your arrest.

If any of the following situations apply to you, you **MUST** go to the hearing.

- I did not go to the injunction hearing and I never gave the court my signed Respondent's Statement of Possession of Firearms (CV-800) form that says I do not own or possess any firearms.
- The judge or commissioner ordered me to surrender my firearms, but I did not do so within 48 hours of the injunction hearing.
- I surrendered my firearms within 48 hours, but I did not take the surrender receipt from the sheriff to the clerk of court.
 - Bring any receipt(s) to the Firearm Surrender Hearing.
- I want to surrender my firearms to someone that I choose rather than the sheriff, but that person did not come to the injunction hearing.
 - The person you want to hold your firearms needs to come with you to the Firearm Surrender Hearing.
- I want to surrender my firearms to another person, but the judge or commissioner made me surrender them to the sheriff first.
 - The person that you want to hold your firearms needs to come with you to the Firearm Surrender Hearing. If the court approves that person to hold your firearms, the person may be able to pick up the firearms from the sheriff.

The injunction against me has expired or has been dismissed. How do I get my firearms back?

- 1. Complete the Petition to Return Firearm(s) (CV-433) form. **Do not sign it yet!**
- 2. Sign CV-433 in front of a notary. (A notary is a person authorized to administer oaths and certify documents. The clerk of court's office and most banks have notaries.)
- 3. File CV-433 with the clerk of court.
- 4. Wait for the judge or commissioner to complete and sign the Order Concerning Return

of Firearms (CV-435). If the court schedules a hearing, you will be notified of that date. If there is no hearing, you will receive CV-435 in the mail.

The judge or commissioner needs to find the answers to these two questions before he/she can order the return of firearms:

- A. Has the injunction against you been vacated or has it expired?
- B. Do any other federal or state laws or court orders prohibit you from possessing firearms?

5. If the judge or commissioner orders your firearms returned, contact the person holding your firearms and notify that person of this decision.

I surrendered my firearms to the sheriff.

- You have 30 days to contact the sheriff. You may be charged storage costs beyond this date.
- If you have not recovered your firearms from the sheriff within 12 months, the sheriff may dispose of your firearms. You may be charged for storage costs beyond the expiration date and for disposal costs.
- The sheriff will return the original receipts and any copies he/she has.