

Information for Respondents Regarding the Surrender and Return of Firearms

Provided by the Wisconsin court system

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

- Wisconsin law: Sections 813.12(4m), 813.122(5m), 813.123, and 813.125(4m) of the Wisconsin Statutes
- Federal law: 18 U.S.C. §922(g)(8) and (9)

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

- Some 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." Some forms must be obtained from the Clerk of Court's Office.

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/AM/Template.cfm?Section=Circuit_court_rules2

Will I have to surrender my firearms?

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

- Grants a domestic abuse injunction against you
- Grants a child abuse injunction against you
- 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 guns 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.

Who can I surrender my firearms to?

- The sheriff (either of the county where you live or the county this court case is in)
 - The sheriff may charge you storage costs for your firearms.
 - The sheriff may store surrendered firearms in a warehouse operated by a licensed public warehouse keeper.
- Another person you choose AND who is approved of by the judge or commissioner
 - This person will need to come to the injunction hearing with you.

What happens now?

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

1. There will be a hearing.
 - Attached is the Respondent's Statement of Possession of Firearms (CV-800V).
 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 and if you will need to surrender your firearms.
2. The judge or commissioner may decide that you need to surrender your firearms.
 - He/she will fill out an Order to Surrender Firearms (CV-803V) form.
 - He/she 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 of the injunction hearing.

I want to surrender my firearms to the sheriff.

- Call the Sheriff's Department and set up a time for firearm surrender.
 - The sheriff's office will give you a receipt for each firearm that you surrender. It will include the firearm's manufacturer, model number, and serial number.
 - Both you and the sheriff's office will sign each receipt. The sheriff's office will keep the original receipt and give you a copy.
- Make a copy of each receipt for your records.
- File the copies of the receipt(s) the sheriff's office gave you with the clerk of court. Do this within 48 hours of the injunction hearing.

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

- That person must be present at the injunction hearing.
 - The judge or commissioner will tell the person about the responsibilities they are taking on by agreeing to be the third party to whom firearms are surrendered. The judge will also give him/her a copy of the Notice of Firearms Possession Penalties (CV-432).

The Order to Surrender Firearms (CV-803V) says that I have a Hearing for Failure to Surrender Firearms. Do I need to go to this hearing?

Please read this section carefully. **If you are required to appear at the Hearing for Failure to Surrender Firearms 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-800V) form that says I do not own or possess any firearms.
- The judge 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 proof of surrender (e.g. receipt of surrender of firearms from law enforcement) to the clerk of court for it to be put in my file.
 - Bring these receipts to this Hearing for Failure to Surrender Firearms.
- I wanted 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 to this Hearing for Failure to Surrender Firearms with you.

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

- 1. Complete form Petition to Return Firearm(s) (CV-433). **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:

1. Has the injunction against you been vacated or has it expired?
 2. 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 six months to contact the Sheriff's Department. You may be charged storage costs beyond this date.
- If you have not recovered your firearms from the Sheriff's Department within 12 months, the Sheriff's Department 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.