



June 10, 2020

TO: Judicial and Legal Communities

FROM: Stephanie Happold, Principal Legal Analyst

SUBJECT: JUNE 2020 SUMMARY OF CHANGES TO EXTREME RISK PROTECTION ORDER FORMS

The Washington Pattern Forms Committee updated the Extreme Risk Protection Order forms. The changes are based upon:

- Feedback received from the judicial community; and
- Administrative edits.

The following are descriptions of the changes.

| Extreme Risk Protection Order forms | |
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| XR 105 | <p>Law Enforcement Information – Extreme Risk Protection Order</p> <p>Removed: [] Male [] Female and replaced with “Sex”</p> <p>New box added for Respondent’s email address. Spaced out the form for more room.</p> |
| XR 121 | <p>Temporary Extreme Risk Protection Order – Without Notice</p> <p>Page 1: <i>You have the sole responsibility to avoid or reframe from violating <u>not violate</u> this order. Only the court may change this order and only after written application.</i></p> <p>Removed “/Gender” from “Respondent Identifiers”</p> <p>Page 2: Based upon the evidence presented, the court finds reasonable cause to believe the respondent poses a significant danger of causing personal injury to self or others</p> |

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| | <p>the near future by having in respondent’s custody or control, purchasing, <u>attempting to purchase</u>, possessing, accessing, or receiving firearms based upon</p> <p>b. [] Respondent <u>owns a firearm(s) or has</u> expressed intent to obtain a firearm(s).</p> <p>j. [] Respondent has been convicted of a hate crime offense or malicious harassment under RCW 9A.36.080.</p> <p>o. [] Respondent has a dangerous mental healthy issue <u>Respondent’s behaviors present an imminent threat of harm to self or others.</u></p> <p>Page 3: In the “Federal and Washington State Computer-Based System Data Entry” box: City/Town Police Department where respondent lives which shall enter this order into the available appropriate federal and state computer-based criminal intelligence information systems per RCW 7.94.110.</p> <p>In the “Service” box: City/Town Police Department where respondent lives who will serve a copy of the petition and this order on respondent, <u>remove all firearms and any concealed pistol license</u>, and <u>file</u> a return of service with the court.</p> <p>Corrected a statute citation in the footer.</p> |
| <p>XR 125</p> | <p>Order Transferring Case and Setting Hearing – Extreme Risk</p> <p>Corrected a statute citation in the footer.</p> |
| <p>XR 141</p> | <p>Extreme Risk Protection Order</p> <p>Page 1: You are prohibited from having a firearm in your custody or control, or from purchasing, <u>attempting to purchase</u>, possessing, or receiving any firearm.</p> <p><i>You have the sole responsibility to avoid or reframe from violating <u>not violate</u> this order. Only the court may change this order and only after written application.</i></p> <p>Respondent: You must <u>immediately</u> surrender all firearms and any concealed pistol licenses listed below. If you have other firearms, you must surrender all of them also:</p> <p>Page 2: Respondent: This order will last until the date and time noted above. If you have not done so already, you must <u>immediately</u> surrender to the</p> |

_____ (local law enforcement agency) all firearms in your custody, control, or possession and any concealed pistol licenses issued to you under RCW 9.41.070 ~~immediately~~. You may not have in your custody or control, purchase, possess, receive, or attempt to purchase or receive, a firearm while this order is in effect. You have the right to request one hearing to terminate this order in every 12-month period that this order is in effect,

Respondent:

You must immediately surrender all firearms as follows:

1. Personally served:

b. If this order is served upon you by someone who is not a law enforcement officer, immediately surrender the firearm(s) and concealed pistol license(s) to the law enforcement agency listed in this order. Contact the law enforcement agency for directions on how to immediately surrender ~~immediately~~ the firearm(s) and concealed pistol license(s).

This Extreme Risk Protection Order is based upon the following findings:

2. The Court finds: By a preponderance of the evidence that ~~There is reasonable cause to believe that~~ the respondent poses a significant danger of causing personal injury to themselves ~~himself/herself~~ or to others in **the future** by having in respondent's custody or control, purchasing, attempting to purchase, possessing, accessing, or receiving firearms; based upon ***(check all that apply, including those listed on the following page):***

b. Respondent owns a firearm(s) or has expressed intent to obtain a firearm(s).

Page 3:

j. Respondent has been convicted of a hate crime ~~offense or malicious harassment~~ under RCW 9A.36.080.

In the **"Federal and Washington State Computer-Based System Data Entry"** box: City/Town Police Department **where respondent lives** which shall enter this order into the ~~available~~ appropriate federal and state computer-based criminal intelligence information systems per RCW 7.94.110.

Page 4:

In the **"Service"** box:

City/Town Police Department **where respondent lives** who will serve a copy of this order on respondent, remove all firearms and any concealed pistol license(s), and file a return of service with the court.

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| | <p>Page 5: Respondent: Read more information about surrender of weapons. Receipt: The law enforcement officer who receives your firearms will prepare a receipt with a list of the firearms <u>and any concealed pistol license(s)</u>. The law enforcement officer shall<u>must</u> file the receipt with the court within 72 hours. The officer will give you a copy of the receipt to keep for your records.</p> <p>If someone else owns the firearms: If the law enforcement agency determines someone else is the lawful owner of the firearm(s), the agency will return the firearm to the lawful owner, if:</p> <ul style="list-style-type: none"> • the firearm is removed from the respondent’s custody, control, and possession; • the lawful owner agrees to store the firearm in a way that respondent does not have access and control of the firearm; and • the owner does not otherwise unlawfully <u>is lawfully authorized to</u> possess the firearm. |
| <p>XR 205</p> | <p>LEIS ERPO – Respondent Under 18 Years</p> <p>Removed: <input type="checkbox"/> Male <input type="checkbox"/> Female and replaced with a box for “Sex”</p> <p>New box added for Respondent’s email address. New box added for Parent or Guardian #1 email address. New box added for Parent or Guardian #2 email address.</p> |
| <p>XR 221</p> | <p>Temporary Extreme Risk Protection Order – Without Notice – Respondent Under 18 Years</p> <p>Page 1: <i>You have the sole responsibility to avoid or reframe from violating <u>not violate</u> this order. Only the court may change this order and only after written application.</i></p> <p>Page 2: Respondent: You must <u>immediately</u> surrender all firearms and any concealed pistol licenses listed below. If you have other firearms, you must surrender all of them also:</p> <p>Based upon the evidence presented, the court finds reasonable cause to believe the respondent poses a significant danger of causing personal injury to self or others in the near future by having in respondent’s custody or control, purchasing, <u>attempting to purchase</u>, possessing, accessing, or receiving firearms based upon</p> |

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| | <p>b. <input type="checkbox"/> Respondent <u>owns a firearm(s) or has</u> expressed intent to obtain a firearm(s).</p> <p>j. <input type="checkbox"/> Respondent has been convicted of a hate crime offense or malicious harassment under RCW 9A.36.080.</p> <p>Page 3:</p> <p>o. <input type="checkbox"/> Respondent has a dangerous mental healthy issue <u>Respondent's behaviors present an imminent threat of harm to self or others.</u></p> <p>In the “Federal and Washington State Computer-Based System Data Entry” box: City/Town Police Department where respondent lives which shall enter this order into the available <u>appropriate</u> federal and state computer-based criminal intelligence information systems per RCW 7.94.110.</p> <p>In the “Service on Minor Respondent” box: City/Town Police Department where respondent lives who will serve a copy of the petition and this order on respondent and <u>file a</u> return of service with the court.</p> |
| <p>XR 231</p> | <p>Order Reissuing Temporary Extreme Risk Protection Order – Without Notice – Respondent Under 18 Years</p> <p>This is a new form.</p> |
| <p>XR 241</p> | <p>Extreme Risk Protection Order – Respondent Under 18 Years</p> <p>Page 1: Warning to Respondent! You are prohibited from having a firearm in your custody or control, or from purchasing, <u>attempting to purchase</u>, possessing, or receiving any firearm. You must surrender any and all firearms including but not limited to firearms as described below. Under RCW 7.94.120, if you violate this order, you may be charged with a crime and you may not be able to have a firearm for at least five more years after this order expires..</p> <p><i>You have the sole responsibility to avoid or reframe from violating <u>not violate</u> this order. Only the court may change this order and only after written application.</i></p> <p>Page 2: Respondent: You must <u>immediately</u> surrender all firearms and any concealed pistol licenses listed below. If you have other firearms, you must surrender all of them also:</p> <p>Respondent: This order will last until the date and time noted above. If you have not done so already, you must <u>immediately</u> surrender to the</p> |

_____ (local law enforcement agency) all firearms in your custody, control, or possession and any concealed pistol licenses issued to you under RCW 9.41.070 ~~immediately~~. You may not have in your custody or control, purchase, possess, receive, or attempt to purchase or receive, a firearm while this order is in effect. You have the right to request one hearing to terminate this order every 12-month period that this order is in effect,

Respondent:

You must immediately surrender all firearms as follows:

1. Personally served:

b. If this order is served upon you by someone who is not a law enforcement officer, immediately surrender the firearm(s) and concealed pistol license(s) to the law enforcement agency listed in this order. Contact the law enforcement agency for directions on how to immediately surrender ~~immediately~~ the firearm(s) and concealed pistol license(s).

3. Service by publication/mail:

~~If you were served a copy of this order by publication or by mail, surrender immediately the firearm(s) and concealed pistol license(s) to the law enforcement agency listed in this order. Contact the law enforcement agency for directions on how to surrender the firearm(s) and concealed pistol license(s) within 48 hours of the date of service.~~

If you were served a copy of this order by publication or by mail, surrender the firearm(s) and concealed pistol license(s) to the law enforcement agency listed in this order within 48-hours of the date of service. Contact the law enforcement agency for directions on how to surrender the firearm(s) and concealed pistol license(s).

Page 3:

This Extreme Risk Protection Order is based upon the following findings:

2. The Court finds: By a preponderance of the evidence that ~~There is reasonable cause to believe that~~ the respondent poses a significant danger of causing personal injury to themselves ~~himself/herself~~ or to others in **the future** by having in respondent's custody or control, purchasing, attempting to purchase, possessing, accessing, or receiving firearms; based upon **(check all that apply, including those listed on the following page):**

b. Respondent owns a firearm(s) or has expressed intent to obtain a firearm(s).

j. Respondent has been convicted of a hate crime ~~offense or malicious~~

harassment under RCW 9A.36.080.

Page 4:

In the “**Federal and Washington State Computer-Based System Data Entry**” box: City/Town Police Department **where respondent lives** which shall enter this order into the ~~available~~ appropriate federal and state computer-based criminal intelligence information systems per RCW 7.94.110.

In the “**Service on Minor Respondent**” box:

City/Town Police Department **where respondent lives** who will serve a copy of the petition and this order on respondent, remove all firearms and any concealed pistol license(s), and file a return of service with the court.

Page 6:

Respondent: Read more information about surrender of weapons.

Receipt: The law enforcement officer who receives your firearms will prepare a receipt with a list of the firearms and any concealed pistol license(s). The law enforcement officer ~~shall~~ must file the receipt with the court within 72 hours. The officer will give you a copy of the receipt to keep for your records.

If someone else owns the firearms: If the law enforcement agency determines someone else is the lawful owner of the firearm(s), the agency will return the firearm to the lawful owner, if:

- the firearm is removed from the respondent’s custody, control, and possession;
- the lawful owner agrees to store the firearm in a way that respondent does not have access and control of the firearm; and
- the owner ~~does not otherwise unlawfully~~ is lawfully authorized to possess the firearm.