



January 1, 2022

TO: Judges, Commissioners, County Clerks, Court Administrators,
Court Facilitators, Libraries, Attorneys, and the Public

FROM: Ashley Tam, Senior Legal Analyst
Administrative Office of the Courts

RE: SUMMARY OF CHANGES FOR CH. 10.77 RCW FORMS
(JANUARY 2022)

1. Form MP 240, *Order for Felony Competency Restoration Treatment*, was updated primarily for a citation change as shown below. (Strikethroughs indicate deletions.) The updated form can be found [here](#).

Citation change in section 11:

11. Time for trial period remains tolled.

Pursuant to CrRLJ 3.3, the time for trial in this case is tolled until the defendant is found competent to stand trial.

Citation change in footers:

This change impacts all pages of the footer in the form, but only page 1 is shown below.

RCW 10.77.010, .050, .060, .065,
.084, .086; CrRLJ 3.3
(01/2022)
MP 240

Order For Felony Competency
Restoration Treatment
p. 1 of 6

- To review all changes made to form MP 240, please see the attached Summary of Changes.
2. Form MP 260, *Order Dismissing Felony Charges and Directing Civil Commitment Evaluation*, was updated in June 2020, primarily for docket code changes. See [June 2020 10.77 RCW summary of changes](#). We recently learned that the newest version of this form was not properly displaying on our court forms website. Please confirm that you have the newest version of the form, which can be found [here](#).

Customizing the Summary of Changes

This Summary of Changes was created using Adobe Acrobat Pro's Compare Tool. Depending on your PDF reader and software version, you may have different options to customize the Summary of Changes.

1. Download the Summary of Changes document from your web browser. Then, open the file with Adobe Acrobat Reader DC.
2. Use the Bookmarks in the left pane (look for the  icon) to locate the form changes you would like to review. Click the form name and then click "Go to First Change (page 1)."
3. Hover over icons in the document (e.g., a message bubble or a white "x" enclosed in a red circle) to see changes appear in a pop-up text box, or click on the icons to see a description of the changes in the right pane.
4. To filter the types of changes you would like to see:
 - a. Click the filter icon  in the right pane. If you do not see the filter icon, go to View>Tools>Comment>Open.
 - b. Select the type of changes (comments) you would like to see, such as "text replaced," "text deleted," or "text inserted." Click to "select" or "unselect." Then, click "apply."
 - c. Select "clear all" to reset the filters, as necessary.

To provide feedback about this Summary of Changes or any of our court forms, please complete the online form at:

<http://www.courts.wa.gov/forms/?fa=forms.formsComments>.

Thank you to the Washington Pattern Forms Committee and the Ch. 10.77 RCW Forms Subcommittee for updating these forms for statewide use.

Compare Results

Old File:

**MP 240_Order for Comp Restore Felony_2021
07.pdf**

6 pages (489 KB)
7/16/2021 9:44:03 AM

versus

New File:

**MP 240 Order Felony Comp Restore
Trtmt_2022 01.pdf**

6 pages (316 KB)
12/28/2021 4:02:41 PM

Total Changes

41

Content

15 Replacements
13 Insertions
13 Deletions

Styling and Annotations

0 Styling
0 Annotations

[Go to First Change \(page 1\)](#)

Superior Court of Washington
County of _____

<hr/> <p style="text-align: right;">Plaintiff</p> <p>vs.</p> <hr/> <p style="text-align: right;">Defendant</p> <p>DOB: _____</p>	<p>No.</p> <p>Order for Felony Competency Restoration Treatment (CRORIP, CROROP)</p> <p><input type="checkbox"/> Out of Custody <input type="checkbox"/> In Custody</p> <p>Clerk's action required: 4, <input type="checkbox"/> 5, 9, <input type="checkbox"/> 10</p>
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The court enters the following regarding the defendant's competency.

Findings of Fact:

- 1. Incompetency.**
By a preponderance of the evidence that, as a result of mental disease or defect, the defendant lacks the capacity to:
 understand the nature of the proceedings against them, and/or
 assist in their own defense.
The defendant is **incompetent**, pursuant to RCW 10.77.010 and RCW 10.77.050.
- 2. Developmental Disability. (Check only if applies)**
 The court has been advised by _____ that the defendant may have a developmental disability.

Conclusions of Law:

- 3. Competency restoration treatment should be provided.**

The Court Orders:

4. Competency Restoration Treatment.

The court orders the defendant into a program for mental health treatment and restoration of competency as described below. Any facility or provider providing services in accordance with this order shall be referred to as the "treatment facility." The treatment facility shall promptly notify the court and all parties of the date on which the competency restoration period commences by admission to the treatment facility and expires by discharge from the treatment facility so that a timely hearing date may be scheduled.

Nature of Treatment (*select one*):

Inpatient Treatment (CRORIP)

The defendant shall be placed in the custody of the Secretary of the Department of Social and Health Services (DSHS) to undergo evaluation and treatment pursuant to RCW 10.77.086. The length of the placement includes only the time the defendant is actually at the treatment facility and shall be in addition to reasonable time for transport to or from the treatment facility.

Outpatient Treatment (CROROP)

Note: Outpatient competency restoration programs are being phased in over several years. There may not be one available in your area. Before you issue the order for outpatient competency restoration treatment, please check with DSHS.

The defendant is clinically appropriate for outpatient competency restoration treatment. The defendant shall be placed on conditional release for up to 90 days for mental health treatment and restoration of competency pursuant to RCW 10.77.086. The defendant must reside in housing approved by DSHS, adhere to medications or receive prescribed intramuscular medication, abstain from alcohol and unprescribed drugs, and follow other rules and conditions for participation established by DSHS.

Outpatient Treatment by DSHS: As of the date of this order, DSHS has certified that there is an available appropriate outpatient restoration program that has adequate space for the defendant at the following outpatient restoration program:

Outpatient Treatment under the guidance and control of a professional person appointed by the court.

Treatment Period (*select one*):

Note: The length of the placement includes only the time the defendant is actually at the treatment facility and shall be in addition to reasonable time for transport to or from the treatment facility.

45 Days: A first felony restoration period of 45 days for cases in which the highest charge is a Class C felony or a Class B felony that is not classified as a violent offense under RCW 9.94A.030.

90 Days: A first felony restoration period of 90 days for a case where the highest charge is a Class A felony or a Class B violent offense or where the defendant has been ordered to participate in outpatient competency restoration.

90 Days: A second felony restoration period of 90 days. The court finds that a

second restoration period is appropriate under RCW 10.77.084 and RCW 10.77.086.

6 months: A third felony restoration of up to 6 months. To support this period of restoration, the court or jury finds:

There is a substantial probability that the defendant will regain competency within a reasonable period of time;

and

The defendant:

is a substantial danger to other persons, and/or

presents a substantial likelihood of committing criminal acts jeopardizing public safety or security.

Medication:

The treatment facility is authorized to administer clinically appropriate, voluntary medication for the purpose of competency restoration.

There is a separate order regarding involuntary medications.

The issue of involuntary medication may be addressed in a separate hearing.

5. Access to Records.

The treatment facility and DSHS shall be entitled to receive any of the information described in RCW 10.77.060, whether the information is held by another mental health, medical or education facility, a jail or other correctional facility, or elsewhere.

Within 24 hours of the signing of this order:

- The **clerk of the court** shall provide this order and the charging documents, including the request for bail and certification of probable cause to DSHS, except for documents that were previously provided. If the competency evaluation was provided by an independent expert, the clerk of the court shall also provide DSHS with a copy of any previous court orders related to competency or criminal insanity and a copy of any of the evaluation report/s that have not been previously provided.

Instead of the clerk of the court providing these documents, they shall be provided by _____.

- The **prosecuting attorney** shall provide to DSHS the discovery packet, including a statement of the defendant's criminal history, unless the materials have previously been provided. **If the defense provides this information, the prosecuting attorney shall be included in the communication so that duplicate materials are not sent.**
- The **jail administrator** shall provide the defendant's medical clearance information to DSHS, if this order requires transportation of the defendant to a facility designated by DSHS.

6. Evaluation and Report.

The treatment facility shall evaluate the defendant's competency to stand trial before the end of the treatment period. The treatment facility shall prepare a written report with the results. **The report shall ordinarily be distributed by the treatment facility within 2 business days of the final evaluation.**

-] **Defense Attorney Presence** (Only check this box if defense counsel wants notice and the opportunity to be present):

The defense requests notification of the time and place of the evaluation at the contact information provided. The defense attorney may be contacted at: 

DSHS shall contact the defense attorney regarding scheduling within a reasonable time.

-] The evaluation may proceed without the defense attorney present if notice has been provided.
-] The evaluation may not proceed without the defense attorney present. The current criminal charge(s) shall not be discussed with the defendant outside the forensic interview.
-] **A defense expert** has been appointed under RCW 10.77.060, and DSHS is directed to contact the defense attorney to determine whether the expert will be witnessing DSHS's evaluation.

Contents of Report:

The report shall include all of the contents required in the initial Order for Competency Evaluation. If this report follows the second treatment period, or the first treatment period if the defendant's incompetence is determined to be solely due to a developmental disability, or if the evaluator concludes that the defendant is not likely to regain competency, then the report must also include an assessment of the defendant's future dangerousness.

-] Additional requirements of report (if any)  _____

Copies of Report:

DSHS shall furnish a copy of the written report of the results of the evaluation to the court, the prosecutor, the defense attorney, the designated crisis responder (DCR) for the county of _____, and the jail/detention facility (if the defendant is currently held in the detention facility).

7. Transportation and Admission to the DSHS Designated Facility.

This section is only applicable if the defendant will be undergoing inpatient restoration.

-] **In-custody Defendant:** The defendant shall be transported and admitted to the treatment facility by the earlier of 7 days of DSHS' receipt of this order or 14 days from the date of this order as required by statute and case law, including *Trueblood v. Wash. State Dep't of Soc. & Health Servs.*, 101 F. Supp. 3d 1010 (W.D. Wash. 2015), *vacated on other grounds*, 822 F.3d 1037 (9th Cir. 2016); [Trueblood v. Wash. State Dep't of Soc. & Health Servs., No. C14-1178 MJP](#), 2017 WL 1488479, 2017 U.S. Dist. LEXIS 65532 (W.D. Wash. Apr. 26, 2017) (Order Adopting (in part) the Parties' Mediated Settlement Agreement).

The jail/detention facility shall transport the in-custody defendant from the jail/detention facility to the treatment facility designated by DSHS and back. Transportation to the treatment facility shall occur within 1 day of the receipt of an offer of admission of the defendant for restoration treatment.

Inpatient Defendant: The defendant is currently admitted to a DSHS designated facility.

Out-of-custody Defendant: Within 2 court days of entry of this order, the defendant's attorney shall contact DSHS to coordinate an admission date. The defendant shall report to the DSHS designated facility as directed by DSHS. The defendant shall obtain medical clearance prior to admission and shall follow the instructions of DSHS regarding medical clearance.

8. Discharge.

Any treatment facility providing inpatient services related to competency shall discharge the defendant as soon as the treatment facility determines that the defendant is competent to stand trial. Discharge shall not be postponed during the writing and distribution of the evaluation report.

The treatment facility shall promptly notify the court and all parties of the date on which the competency restoration period expires by discharge from the treatment facility so that a timely hearing date may be scheduled.

If the defendant is discharged to the jail/detention facility, the jail/detention facility must continue the medication regimen prescribed by the DSHS designated facility, when clinically appropriate, unless the defendant refuses to cooperate with medication and there is no forced medication order in effect.

9. Next Hearing.

The next hearing date is scheduled for (date) _____ at _____ a.m./p.m.
a (location) _____.

A separate scheduling order shall be filed, if required by local practice. (This date must be prior to the expiration of the current restoration period.)

If the defendant is admitted to a facility designated by DSHS from a jail/detention facility, the defendant shall be returned to the jail/detention facility before this court date, except as provided below:

All parties agree to waive the presence of the defendant or agree to the defendant's remote participation at a subsequent competency hearing or to the presentation of an agreed order if the opinion of the treatment facility is that the defendant remains incompetent and the hearing is held prior to the expiration of the current commitment period. **The report must be provided to the parties with sufficient time to accommodate remote participation for entry of a continued restoration order.**

10. Interpreter. The defendant requires the services of an interpreter in the following language: _____.

11. Time for trial period remains tolled.

Pursuant to CrR 3.3, the time for trial in this case is tolled until the defendant is found competent to stand trial.

12. Firearm Restriction.

The defendant shall immediately surrender any concealed pistol licenses, and the defendant may not possess a firearm unless the defendant's right to do so is restored by

a court of record. The *Notice of Ineligibility to Possess a Firearm* is filed separately.

13. **Other.** _____
_____.

Dated: _____

Judge
Print Name: _____

Approved as to form

Approved as to form

Deputy Prosecuting Attorney

Attorney for the Defendant

Print Name: _____

Print Name: _____

WSBA No. _____

WSBA No. _____

Contact and distribution list (contact information including email address, phone, and/or fax number, should be provided below to receive scheduling communications and/or reports).

1. State Hospital/DSHS
[] Eastern State eshfsuadmin@dshs.wa.gov _____
[] Western State ofmhscourtorders@dshs.wa.gov _____
[] DSHS/Child Study and Treatment Center _____
2. Ordering Court _____
3. Jail/Detention Facility _____
4. Designated Crisis Responder _____
5. Prosecuting Attorney _____
6. Defense Attorney _____
7. Alternate contact for defense _____
8. Other _____