

June 19, 2020

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

FROM: Ashley Tam, AOC Sr. Legal Analyst

RE: Summary of Changes to 10.77 RCW Forms (June 2020)

The Washington Pattern Forms Committee updated the 10.77 RCW pattern forms to incorporate changes to law, address user feedback, improve form accuracy, and increase the clarity of information contained on these forms. The changes to the forms and the related session law (if applicable) are indicated below.

Note: This summary is a guide, showing changes that have been made to the forms released on June 11 and 15. Strikethroughs indicate deletions and underlines indicate additions. Please refer to the current version of each form to ensure proper formatting, including indentation, spacing, and font size.

**1. MP 203, Order Appointing a Forensic Navigator** (new form)

This new order was created for the rollout of the forensic navigator services in the regions participating in the first phase of the program. [Laws of 2019, ch. 326 §2, 2ESSB 5444](http://lawfilesext.leg.wa.gov/biennium/2019-20/Pdf/Bills/Session%20Laws/Senate/5444-S2.SL.pdf?q=20200608192151), Forensic Mental Health Care—Competency Evaluations and Restoration, effective July 28, 2019 (codified as [RCW 10.77.074](https://app.leg.wa.gov/RCW/default.aspx?cite=10.77.074)).

**2. MP 240, Order for Felony Competency Restoration Treatment**

This form was modified to improve the accuracy and the clarity of form language, and to incorporate user feedback.

* Updated clerk’s action sections in the right caption:

Clerk’s action required: ~~3, 8, 11~~ 4, 9, 12

[ ] ~~4~~ 5, [ ] ~~9~~ 10

* For the Developmental Disability section under Findings of Fact:

**2.** **Developmental Disability.** *(Check only if applies.)*

* Former section numbers 2 through 12:

The section numbers have been increased by one number.

* Former section 2 (now section 3):

**~~2~~3.** Competency restoration treatment ~~should be provided~~ is appropriate under RCW 10.77.086.

* Former section 3 (now section 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*.*

Under Nature of Treatment>Inpatient Treatment:

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~~ competency restoration under 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.

Under Nature of Treatment>Outpatient Treatment:

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~~ under RCW 10.77.086. . . .

Under Treatment Period:

[ ] **45 Days:** A first felony inpatient 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).

* Former section 4 (now section 5) **Access to Records**:

Changed: Punctuation from period to colon after section heading.

Updated this section language:

~~The~~ This signed court order shall serve as authority for the treatment facility (including outpatient restoration provider) and DSHS ~~shall be entitled~~ to ~~receive any of the information described in RCW 10.77.060, whether the information is~~ be given access to all records held by ~~another~~ any mental health, medical, educational, or ~~education facility, a jail or other~~ correctional facility~~, or elsewhere.~~ that relate to the present or past mental, emotional, or physical condition of the defendant.

**Within 24 hours** of the signing of this order~~:~~ the following information shall be provided to DSHS, the prosecuting attorney and the defense attorney at the emails designated in the distribution at the end 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.~~
* ~~[ ]~~ The **clerk of the court** shall provide a copy of this order.

[  ] Instead of the clerk of the court providing ~~these documents, they shall~~ this document, it will be provided by: .

~~The~~ **~~prosecuting attorney~~** ~~shall provide to DSHS the~~

* Unless previously provided to DSHS and for the purpose of competency restoration, the following materials shall be provided: The discovery packet, ~~including a statement~~ charging document, understanding of the defendant’s criminal history, ~~unless the materials have~~ and any written competency evaluation that was utilized in the court’s finding that the defendant is not competent to proceed.  DSHS shall forward previously received discovery packet information to any contracted outside agency providing restoration services.  Documentation not previously ~~been~~ provided~~.~~ ***~~If the defense provides this information,~~*** shall be sent by:
* [ ] the prosecuting attorney ~~shall be included in the communication so that duplicate materials are not sent~~, [ ] the defense, [ ] other .
* 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~~ for inpatient competency restoration. Upon request of DSHS, the jail administrator shall provide updated medical information, if needed.
* Former section 5 (now section 6) **Evaluation and Report**:

Changed: Punctuation from period to colon after section heading.

Under Defense Attorney Presence Option>2nd Suboption:

[ ] The evaluation may not proceed without the defense attorney present. The current criminal charge(s) shall not be discussed with the ~~d~~Defendant outside the forensic interview*.*

Under 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 ~~d~~Designated ~~c~~Crisis ~~r~~Responder (DCR) for the county of , and the Jail/Detention facility (if the defendant is currently held in the detention facility).

* Former section 6 (now section 7) **Transportation and Admission to the DSHS Designated Facility:**

Changed: Punctuation from period to colon after section heading.

Under In-Custody Defendant Option:

[ ] **In-custody Defendant:** The defendant shall be transported and admitted to the treatment facility by the earlier of 7 days of DSHS’s receipt of this order or 14 days from the date of this order . . .

Under Out-of-Custody Defendant Option:

[ ] **Out-of-custody Defendant:** Within ~~2~~3 court days of entry of this order, the defendant’s attorney shall contact DSHS to ~~coordinate an~~ request notification of the 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.

* Former section 7 (now section 8) **Discharge**:

Changed: Punctuation from period to colon after section heading.

* Former section 8 (now section 9) **Next Hearing**:

Changed: Punctuation from period to colon after section heading.

Changed the abbreviation of A.M./P.M. to a.m/p.m.:

The next hearing date is scheduled for (*date*)

at  ~~A.M./P.M~~ a.m./p.m., at .

**3.** **MP 260, Order Dismissing Felony Charges and Directing Civil Commitment Evaluation**

* Replaced the existing docket/event codes:

**ORDSMWO** (Order of Dismissal without Prejudice) and

**ODIVTE** (Order Directing Involuntary Treatment Evaluation

With a new docket code representing both events:

**ORDDCCE** (Order of Dismissal and Civil Commitment Evaluation)

These changes appear in the right caption of the form:

|  |
| --- |
| **No.**  **Order Dismissing Felony Charges and Directing Civil Commitment Evaluation**  **(~~ORDSMWO, ODIVTE~~ ORDDCCE)**  **Clerk’s Action Required**: **4,**  [ ] **7** |

* Adjusted the layout of the form title, moved and replaced the docket/event code, and updated the effective date of the form from 01/2020 to 06/2020 in the footer. For example, on Page 1:

Order Dismissing Felony Charges ~~(ORDSMWO, ODVITE)~~ and Page 1 of 3

~~and~~ Directing Civil Commitment Evaluation (ORDDCCE)

MP 260 (0~~1~~6/2020) RCW 10.77.068, .084, .086