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January 31, 2018

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

FROM: Merrie Gough, AOC Sr. Legal Analyst

RE: Summary of Changes to Surrender of Weapons forms

The Washington Pattern Forms Committee updated the Surrender of Weapons forms to implement recommended changes. Key changes include:

* The Surrender of Weapons order is separate from the protection order.
* The Surrender of Weapons order has an expiration date.
* There are separate Surrender of Weapons orders for civil cases and for criminal cases.

Detailed descriptions of the changes to the Surrender of Weapons forms are in the table below:

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| Form number | Form title and description |
| **Civil cases**: Use these forms with civil protection orders (domestic violence, stalking, sexual assault, unlawful harassment) and family law restraining orders that order surrender of weapons. |
| **WPF All Cases 02-010** | **Motion for Surrender of Weapons**Insert “(Civil)” after the form name in the footer.Below the caption, add the following instructions:*Use this motion to ask the court for a weapons order when:** *you did not ask the court for a weapons order as a part of your protection order or restraining order,*
* *the final protection order or restraining order issued by the court did not include a weapons order.*

In section one, add the following new check box as the last of the list:[ ]  Restraining Order, RCW 26.09, 26.10, 26.26Add a new section two as follows:**2.** [ ]  The court must issue an Order to Surrender Weapons because the court issued an order on \_\_\_\_\_\_\_\_\_\_\_ date and included provisions that the respondent:* is **restrained** from causing physical harm, bodily injury, assault, including sexual assault, and from molesting, harassing, threatening, or stalking, the protected person/s;
* had actual notice of the hearing and an opportunity to be heard and
* represented a credible threat to the physical safety of the protected person/s; and
* was the protected person’s spouse or former spouse, current or former registered domestic partner, parent of a child in common, or current or former cohabitants as part of a dating relationship.

Renumber the remaining sections.After section “2” and before section “3,” add “Or.”At the beginning of section 3, add a check box.In section 6, beginning with “I request that the court…,” add a check box at the beginning of the third bulleted section. Below the signature line, add the following information about scheduling a hearing and service:“Protected person or attorney, you must:* **Schedule a hearing** on the Motion for Order to Surrender Weapons.
* **Arrange to serve notice** of the hearing on the other party.
* **File proof of service** in the court file prior to the hearing.”
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| **WPF All Cases 02-030** | **Order to Surrender Weapons Issued without Notice**Insert “(Civil)” after the form name in the footer.In the caption, below “Clerk’s Action Required,” insert:**Next Hearing Date/Time:** \_\_\_\_\_\_\_\_\_\_\_\_**At**: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Below the caption, change the first paragraph of text to:“This order is based on the findings in the order issued on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date).”Change the line below “Restrained person (name) \_\_\_\_\_\_\_\_:” as follows:~~The court orders that you (restrained person)~~You must immediately surrender (turn in) all firearms and other dangerous weapons in your possession or control. Below the heading “**Surrender weapons to the:**” change the second check box option as follows:“[ ]  other person designated by the court who is not prohibited from possessing or obtaining any firearms, other dangerous weapons, and concealed pistol license under state or federal law, who agrees to comply with the background check required by RCW 9.41.113, and who agrees to complete the ***Receipt for Surrendered Weapons and Concealed Pistol License***:”Immediately above the section that begins with “**If you have weapons**:..., ” insert the following information about an expiration date:

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| This order expires | **At the end of the hearing, noted above**. |

In the section titled “**Service**,” add the following as the last check box option:“[ ]  The clerk will forward this order to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [ ]  county or [ ]  city/town law enforcement for service of respondent in cases allowed by law.”Below the signature line for “**Judge/Commissioner**,” delete the following check box options:~~[ ]  I acknowledge receipt of additional instructions for surrender of weapons to law enforcement.~~~~[ ]  The only instructions for surrender of weapons to law enforcement are in this order.~~Below the signature lines for the restrained person and the protected person, add the following information:“You may download the forms listed in this order from the Washington Courts’ forms web site: <http://www.courts.wa.gov/forms/>.” |
| **WPF All Cases 02-040** | **Order Re: Motion for Surrender of Weapons**Change the code “ORWPNP” to “ORGMT” in the caption and in the footer.Insert “(Civil)” after the form name in the footer.On page two, below “Order,” change the second order as follows:“~~turn in any firearms, other dangerous weapons, and concealed pistol license as stated in the~~ comply with the ***Order to Surrender Weapons*** filed separately.”Add two new sections in table format for data entry and service:**Washington Crime Information Center (WACIC) Data Entry**The clerk of court shall forward a copy of this order on or before the next judicial day to the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ County Sheriff's Office or \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ City/ Town Police Department **where the protected person lives** which shall enter this order into WACIC.**Service**[ ]  The restrained person appeared in court. Additional service is not required.[ ]  The protected person shall make arrangements for service of this order. Service may be done by a law enforcement agency, a hired professional process server, or a person 18 or over who is not a party to this action. The clerk will forward this order to law enforcement for service in cases allowed by law. |
| **WPF All Cases 02-050** | **Order to Surrender Weapons**Insert “(Civil)” after the form name in the footer.Change the caption above “Clerk’s action required” as follows:Order to Surrender Weapons[ ]  Temporary (ORWPNP) [ ]  Final (ORWPNP) [ ]  Review Hearing set (ORSRH) Review hearing date: At:  Below the caption, change the text as follows:“This order is based on the findings in the order dated \_\_\_\_\_\_\_\_. ~~In an~~ ~~order dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.~~ ~~, the court ordered that the restrained person must:~~* ~~not obtain or possess any firearms, other dangerous weapons, or concealed pistol license; and~~
* ~~turn in any firearms, other dangerous weapons, and concealed pistol license as stated in this Order.~~

~~The court orders:~~”After “Restrained person (name) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_:” insert the following line:“You must immediately surrender any firearms, other dangerous weapons, and concealed pistol license.”Then, add the follow information about the expiration date:On \_\_\_\_\_\_\_\_\_\_\_\_\_ (date) or until further order of the court.**This order expires:** Below the heading Surrender Weapons and Concealed Pistol License (CPL) to:” change the second check box option as follows:“ other person designated by the court who is not prohibited from possessing or obtaining any firearms, other dangerous weapons, and CPL under state or federal law, who agrees to comply with the background check required by RCW 9.41.113, and who agrees to complete the *Receipt for Surrendered Weapons and Concealed Pistol License*:”Move the section on “WACIC Data Entry” to a separate box and change the title as indicated below:

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| **Washington Crime Information Center (WACIC) Data Entry**The clerk of court shall forward a copy of this order on or before the next judicial day to the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ County Sheriff's Office or \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ City/ Town Police Department **where the protected person lives** which shall enter this order into WACIC. |

In the box for “**Service**” change the last option as follows:“[ ]  The clerk will forward this order to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [ ]  county or [ ]  city/town law enforcement for service of respondent in cases allowed by law.”Below the signature line for “Judge/Commissioner,” delete the following check box options:~~[ ]  I acknowledge receipt of additional instructions for surrender of weapons to law enforcement.~~~~[ ]  The only instructions for surrender of weapons to law enforcement are in this order.~~Below the signature lines for the restrained person and the protected person, add the following information:You may download the forms listed in this order from the Washington Courts’ forms web site: <http://www.courts.wa.gov/forms/>.Delete the box regarding the *Confidential Information Form*:

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| ~~The Protected Person must complete a~~ *~~Confidential Information Form~~* ~~and file it with the clerk, unless a current one is on file.~~ |

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| **WPF All Cases 02-060** | **Proof of Surrender**Insert “(Civil)” after the form name in the footer. |
| **WPF All Cases 02-065** | **Receipt for Surrendered Weapons and Concealed Pistol License**Below the title of the form, add “Civil” as follows:(Civil) (Attachment)Insert “(Civil) (Attachment)” after the form name in the footer.In the check box option for “**Attorney or other person designated by the court**,” insert the following as the second statement:* I complied with the background check required by RCW 9.41.113, unless exempt under that statute.
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| **WPF All Cases 02-070** | **Declaration of Non-Surrender**Insert “(Civil)” after the form name in the footer. |

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| **All Cases:** |
| **WPF All Cases 02-090** | **Order to Release Weapons**Change references to “restrained person” to “restrained person/defendant.”On the second page, in the box about “Obtaining your firearm,” change section 2 and add a new section 3, as follows:2. Firearms will only be released to the restrained person/defendant named on the Order to Release Weapons or an authorized representative of that person.3. See RCW 9.41.345 for additional requirements. |
| **Criminal cases:** The Pattern Forms Committee created separate surrender of weapons forms for criminal cases. The form numbers for the criminal forms begin with “NC.” The following describes changes made to adapt the forms for use in criminal cases and other recommended improvements that apply to both civil and criminal forms. |
| **NC 03.0300** | **Order to Surrender Weapons** In the left side of the caption, change the parties to “Petitioner” and “Defendant.”In the right side of the caption, below the form title, insert the following check box options:[ ]  Pre-Trial (ORWPNP) [ ]  Post Conviction (ORWPNP) [ ]  Review Hearing set (ORSRH) Insert “(Criminal)” after the form name in the footer.Below the caption, change the text as follows:“This order is based on the findings in the order dated \_\_\_\_\_\_\_\_\_\_\_. ~~In an~~ ~~order dated \_\_\_\_\_\_\_\_\_\_.~~ ~~, the court ordered that the restrained person must:~~* ~~not obtain or possess any firearms, other dangerous weapons, or concealed pistol license; and~~
* ~~turn in any firearms, other dangerous weapons, and concealed pistol license as stated in this Order.~~

~~The court orders:~~”Change “Restrained person” to “Defendant” wherever it appears in the form.After “Defendant (name) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_:” insert the following line:“You must immediately surrender any firearms, other dangerous weapons, and concealed pistol license.”Below the heading Surrender Weapons and Concealed Pistol License (CPL) to:” change the second check box option as follows:“ other person designated by the court who is not prohibited from possessing or obtaining any firearms, other dangerous weapons, and CPL under state or federal law, who agrees to comply with the background check required by RCW 9.41.113, and who agrees to complete the ***Receipt for Surrendered Weapons and Concealed Pistol License***:”After the sentence beginning with “If any designated person…” insert the follow information about the expiration date:

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| **This order expires**: | **[ ]** on \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date) or **[ ]**  1 year **[ ]**  2 years from today’s date. 5 years from today’s date if no date is entered and no box is checked. |

Immediately above “**If you have weapons or CPL**:”, delete:**~~The Law Enforcement Officer serving this order may accept your weapons at the time of service.~~**Change the title for “WACIC Data Entry” as indicated below:

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| **Washington Crime Information Center (WACIC) Data Entry**The clerk of court shall forward a copy of this order on or before the next judicial day to the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [ ]  County Sheriff's Office [ ]  City/ Town Police Department where the case is filed, which shall enter this order into WACIC. |

Delete the “**Service**” section.Below the check box that begins with “You must appear,” add the following sentence:“This order replaces all prior orders to surrender issued under this case number.”Below the signature line for “**Judge/Commissioner**,” delete the following check box options:~~[ ]  I acknowledge receipt of additional instructions for surrender of weapons to law enforcement.~~~~[ ]  The only instructions for surrender of weapons to law enforcement are in this order.~~Below “I acknowledge receipt of a copy of this order,” delete all the signature lines and replace them with:“⮚ Defendant’s Signature Print Name”Below the defendant’s signature line, add the following information:“You may download the forms listed in this order from the Washington Courts’ forms web site: <http://www.courts.wa.gov/forms/>.”Delete the box regarding the *Confidential Information Form*:

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| ~~The Protected Person must complete a~~ *~~Confidential Information Form~~* ~~and file it with the clerk, unless a current one is on file.~~ |

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| **NC 03.0400** | **Proof of Surrender (Criminal)**In the left side of the caption, change the parties to “Petitioner” vs. “Defendant.”Insert “(Criminal)” after the form name in the footer. |
| **NC 03.0500** | **Receipt for Surrendered Weapons and CPL (Criminal)**Change “Restrained person” to “Defendant” wherever it appears on the form.In the title of the form, add “(Criminal)” as follows:**Receipt for Surrendered Weapons and CPL** (Criminal) (Attachment)Insert “(Criminal) (Attachment)” after the form name in the footer.Below the check box option for “**Attorney or other person designated by the court**,” insert the following as the third statement:* I complied with the background check required by RCW 9.41.113, unless exempt under that statute.
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| **NC 03.0600** | **Declaration of Non-Surrender (Criminal)**In the left side of the caption, change the parties to “Petitioner” and “Defendant.”Insert “(Criminal)” after the form name in the footer. |