

Firearms Restrictions in Juvenile Cases

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December 2023 Juvenile Clerks Meet-Up

OVERVIEW OF PRESENTATION

- Injunctions
 - Juvenile injunctions
 - Firearm surrender hearings
- Firearm Restrictions
 - Reporting requirements
 - Removing firearms restrictions



INJUNCTIONS

Injunction-Based Firearm Restrictions

OVERVIEW OF RESTRAINING ORDERS

Four types of restraining orders in Wisconsin

- Domestic abuse (Wis. Stat. 813.12)
- Child abuse (Wis. Stat. 813.122)
- Individual at risk (Wis. Stat. 813.123)
- Harassment (Wis. Stat. 813.125)

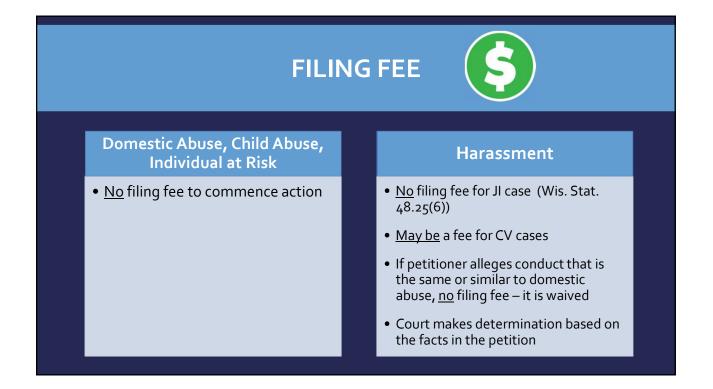
TEMPORARY RESTRAINING ORDER VS. INJUNCTION

Temporary Restraining Order (TRO)

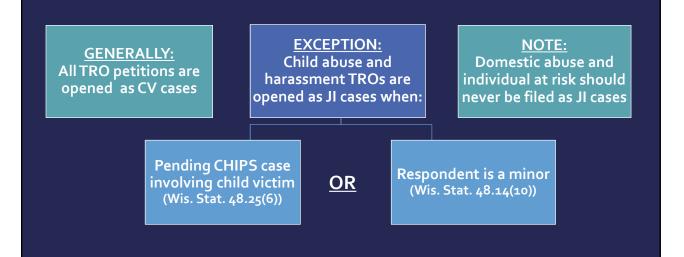
- Granted *ex parte* and without a hearing
- Valid for 14 days, unless extended by the court
- Firearms surrender requirements <u>do not</u> apply

Injunction

- Granted after full due process hearing
- Generally valid for 2-4 years, but can be extended up to 5-10 years
- Firearm surrender requirements <u>do</u> apply
 - Even if respondent does not appear at the injunction hearing



WHAT IS A JUVENILE INJUNCTION (JI) CASE?



WHAT FORMS ARE USED?

JI Case – Child Abuse

- Petition in Juvenile Court for TRO (Child Abuse) (JC-1690)
- Temporary Restraining Order (Child Abuse) (JC-1691)
- Injunction in Juvenile Court (Child Abuse) (JC-1692)

JI Case – Harassment

- Petition in Juvenile Court for TRO (Harassment) (JC-1693)
- Temporary Restraining Order (Harassment) (CV-406)
- Injunction (Harassment) (CV-407)



FIREARMS RESTRICTIONS

Mandatory Firearms Restriction

- Domestic Abuse
- Child Abuse
- "An injunction ... shall ... require the respondent to surrender any firearms that he or she owns or has in his or her possession..."

Optional Firearms Restriction

- Harassment
- Individual at Risk
- If the court determines "... that the respondent may use a firearm to cause physical harm to another or to endanger public safety, the judge or circuit court commissioner <u>may</u> prohibit the respondent from possessing a firearm."

FIREARMS SURRENDER REQUIREMENTS

Court is required to hold a firearms surrender hearing when:

Court issues domestic abuse, child abuse, individual at risk (w/ firearm restriction), or harassment injunction (w/ firearm restriction)

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Court finds that the respondent possesses firearm(s)

See "Firearms surrender hearing procedures for clerks" under Civil / Small Claims Model Recordkeeping Procedures

FIREARMS SURRENDER CODES

For individual at risk and *harassment* injunctions, note whether the injunction is with or without a firearms restriction:

- INJWF (Injunction with firearm restriction)
- <u>INJU</u> (Injunction w/out firearm restriction)

Reminder: Domestic abuse and child abuse injunctions *always* have a firearm restriction.

FORMS FOR INJUNCTION-RELATED FIREARM RESTRICTIONS



Required Forms for All Injunction Types

- 1. Information for Respondents Regarding the Surrender and Return of Firearms (CV-804)
- 2. Respondent's Statement of Possession of Firearms (CV-800)
- 3. Notice of Firearms Possession Penalties (CV-432)

Optional Form – Petitioner's Statement of Respondent's Possession of Firearms (CV-801)

- Petitioners are not required to fill out this form it is optional
- Petitioners may not feel comfortable submitting this form to the court because of safety concerns





FIREARM SURRENDER HEARINGS

<u>Court finds respondent</u> <u>does NOT possess a</u> <u>firearm:</u> No further action. Respondent surrendered to a 3rd party who was present at hearing: File/date stamp Notice of Firearms Possession Penalties (CV-432) and enter <u>NFPP</u> court record event. 3rd party should receive copy. Respondent surrendered to sheriff and brought a surrender receipt: File/date stamp the receipt and enter <u>RSF</u> court record event.

<u>Court schedules another firearm surrender</u> <u>hearing and issues Order to Surrender Firearms</u> <u>and Notice of Firearm Surrender Hearing (CV-</u> <u>803):</u> File/date stamp and enter <u>OSFNH</u> court record event. Send copy to sheriff. Enter hearing date with <u>FSH</u> scheduled activity code.

<u>Respondent does not appear:</u> An arrest warrant may be issued following your local arrest warrant procedure.

RESTRAINING ORDER TRAINING ON COURTNET

• <u>http://courtnet.wicourts.gov/education/courtops/restord.htm</u>

- "Effectively Processing Restraining Order Cases"
- · 6 Self-Guided Modules
 - Introduction (20 minutes)
 - Domestic Abuse (20 minutes)
 - Child Abuse (20 minutes)
 - Harassment (20 minutes)
 - Individual at Risk (15 minutes)
 - Processing Restraining Order Cases (15 minutes)

FIREARM RESTRICTIONS

And Processes

WHO IS PROHIBITED FROM POSSESSING A FIREARM?

Juvenile Injunction Cases (JI)

- Any person who is subject to a child abuse injunction (Wis. Stat. 941.29(1m)(f))
- Any person subject to a harassment injunction and the court ordered not to possess a firearm (Wis. Stat. 941.29(1m)(g))

Juvenile Cases (JV)

Any juvenile "adjudicated delinquent for an act committed on or after April 21, 1994, that if committed by an adult would be a *felony*" (Wis. Stat. 941.29(1m)(bm))

CLERK'S RESPONSIBILITY TO REPORT FIREARMS RESTRICTIONS TO DOJ

Juvenile Injunction Cases (JI)

- The court shall notify DOJ of any individual who is subject to a domestic abuse or child abuse injunction or ordered not to possess under a harassment or individual at risk injunction. (Wis. Stat. 175.60(11)(a)2.f.)
- Cases are sent to DOJ when <u>IG</u> (Injunction granted) and <u>INJWF</u> (Injunction with firearm restriction) are added

See pgs. 23-24 of Civil Model Recordkeeping Procedures

Juvenile Cases (JV)

If a juvenile is adjudged delinquent for an act that would be a felony if committed by an adult, the court clerk shall notify DOJ of this fact. No other information from the juvenile's court records may be disclosed to DOJ except by order of the court. (Wis. Stat. 938.396(29)(n))

See pgs. 23-24 of Ch. 938 Juvenile Model Recordkeeping Procedures

CH. 938 JUVENILE MODEL	RECORDKEEPING
Note: NOME IMPLOYEE SERVICES EDUCATION PEOPLE & PLACES RESOURCES CALENDARS Q Family/Paternity > Samily/Paternity >	 Following the dispositional order, the clerk will: Within 5 days of a dispositional order adjudicating the juvenile for a delinquent act that would either be a middemeanor or a telony if committed by an adult, send the school board the Notice to School (DD-1725) and a copy of the dispositional order [Wis. Stat. 93.896/2g](m)]. If the juvenile was adjudged delinquent for an act that would have been a felony if committed by an adult, generate the Adjudication and Prohibited Possession of Firearms and Caregiver License Restriction Report (GF-202) and send it to Department of Justice through the CZAP (Interface, Wins. Stat. 93.83.211). The PRP (Prohibite Possession Firearms/Day Care License Rep) court record event will be automatically added to the case. This is mandatory and does not require the judge to specifically order it. [Wis. Stat. Stat. 93.80.201]
Juvenile	Journie Mobil Recordinging Procedures 2021 23
Addition 9470 Automic Division Scote: Claster 68(1120) Automic Division Scote: Claster 68(1120) Automic Division Scote: Claster 58(1120) Automic Division Scote: Claster 58(1120)	 No other information or document from the juvenile's court record can be disclosed to the Department of Justice, except by court order. GF-220 would not be used for a Consent Decree, as there is no delinquery adjudication unless the juvenile is that adjudicated after the consent decree is vacated. It would also not apply when the judge orders the juvenile to not posses firemans or weapons as part of the condition/Jules of supervision in a misdemeanor case. Place the dispositional order(s) and minutes, notices or other documents in the case file.
AddLAddeploinMMX storedures MV20 Guardina et al. deploined at others	 Place court reports and other sensitive information into an envelope that can be sealed and marked "For Sensitive Personal Information." Place the envelope in the case IV file.

HOW TO REPORT JV RESTRICTIONS TO DOJ?

- Complete Adjudication and Prohibited Possession of Firearms and Caregiver License Restriction Report (GF-220)
 - Regardless of whether it was condition of supervision
- · Generate and send via CCAP
- Used in JV, JM, JG

STATE OF WIS	CONSIN. CIRCUIT	COURT.			COUNTY		
					Amended	-	
Name:	Last	First Midd	e Name/	A	udication and		
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Date of Birth: Prohibited Possession							
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Court ORI					of the person prohibited		
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	Guardianship or						
The above individual was committed under §51.20(13)(a)35., Wis. Stats., and ordered not to possess a firearm.							
[§§51.20(13)(cv)1 and 941.29(1)(e), Wis. Stats.]							
The above individual was committed under §51.45(13)(g)1, WI Stats. and ordered not to possess a firearm. ISEE1.45(13)(i)1.146n. State 1							
[§§51.45(13)(i)1, Wis. Stats.] A guardian of the person was appointed for the above individual under §54.10(3), Wis. Stats., and the individual							
was ordered not to possess a firearm. (§54.10(3)(f). Wis. Stats.)							
The court	ordered protective se	ervices or protect	tive place	ement for the	above individual und [§55.12(10)(a), Wis. 1		-
Effective Date of	Order: Month	/ Day	. /	Year			
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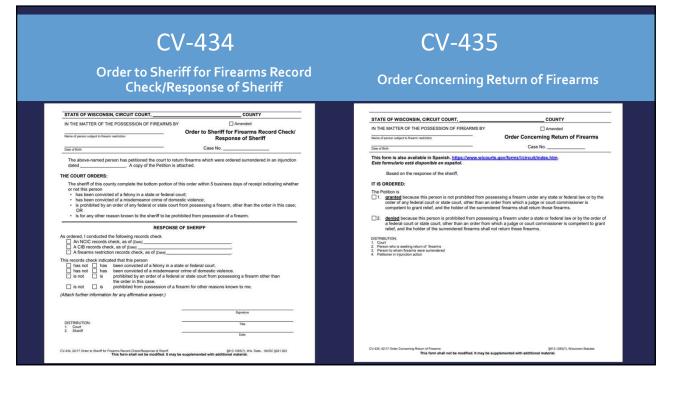
REMOVAL OF FIREARMS RESTRICTION

Juvenile Injunction Cases (JI)

- Prohibition continues until injunction is vacated or expires (Wis. Stat. 813.1285(7))
- If respondent surrendered firearms, s/he must petition the court to have them returned
 - Petition to Return Firearm(s) (CV-433)
- No filing fee; file in JI case
- Court must determine if injunction has been vacated or expired <u>and</u> whether respondent is prohibited from possessing under any state or federal law
 - Use Order to Sheriff for Firearms Record Check/Response of Sheriff (CV-434)
 - Court completes Order Concerning Return of Firearms (CV-435)

See pgs. 28-29 of Civil Model Recordkeeping Procedures

CV-433
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REMOVAL OF FIREARMS RESTRICTION

Juvenile Cases (JV)

- Prohibition continues to adulthood *unless* judge removes restriction (Wis. Stat. 941.29(8))
- · Juvenile must petition the court
 - Petition for Removal of Firearms Restriction (JD-1771)
 - No filing fee; use GV or GJ file
- Court must determine person is not likely to act in a manner dangerous to public safety
 - Order Concerning Removal of Firearm Restriction (JD-1772)
 - Send copy to original county, if necessary
 - If granted, send Firearms Cancellation Report (GF-221) to DOJ

See pgs. 34-35 of Ch. 938 Juvenile Model Recordkeeping Procedures

JD-1				
Petition for Rem Restr	oval of Firearms iction			
STATE OF WISCONSIN, CIRCUIT COURT, IN RE THE PETITION OF Name Date of both Case	COUNTY Petition for Removal of Firearm Restriction (Juvenile) No	Note: JD-1771 can be filed in		
for the following felonies:	I was found delinquent in County on (Date) for the following felonies:			
I am not likely to act in a manner dangerous to publ Since the adjudication listed in #1,1		another county		
	Address Email Address Telephone Numb Date State Bar No. (/f.			
DB1TB8/T/DN: C.2.venile 3. Overlie 3. Obert Attorney of county where this petition is filed 4. Court where ethnogenery objective software objectuation occurred 5. Obert Attorney of county are software objectuation occurred				



FIREARMS RECORDS CHECKS FROM DOJ

DOJ may request information related to firearms prohibitions if:

- Someone applies for a concealed carry license, or
- Someone wants to purchase a firearm through a licensed dealer, or
- Someone petitions to have firearms returned after injunction is vacated or expired, or
- Other states or federal agencies (e.g., FBI, ATF, ICE) make request for investigation

What information can you provide?

Clerk is required to notify DOJ of felony adjudications, but <u>may not disclose any other</u> <u>information from the juvenile's court records except by court order</u>. (Wis. Stat. 938.396(2g)(n))

FIREARMS RECORDS CHECKS FAQS

Can you tell DOJ whether the restriction is still active? E.g., "A person has a firearms restriction from case 99JVo1. Can you confirm this is still an active restriction?"

- Yes, you can confirm whether a restriction is or is not active
- DOJ policy is to ensure that juvenile restrictions are still active when they get a request
- If Cancellation Report (GF-221) was filed, but never sent to DOJ, send a copy

Can DOJ send requests via email?

- Yes Director of State Courts Office updated email policy in February 2019 to permit email requests for DOJ background and hotline checks, among other things
- See Informational Bulletin 19-02 on CourtNet: http://courtnet.wicourts.gov/bulletins/informational.htm
- Follow best practice suggestions, including having group email address

CONTACT INFORMATION

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