

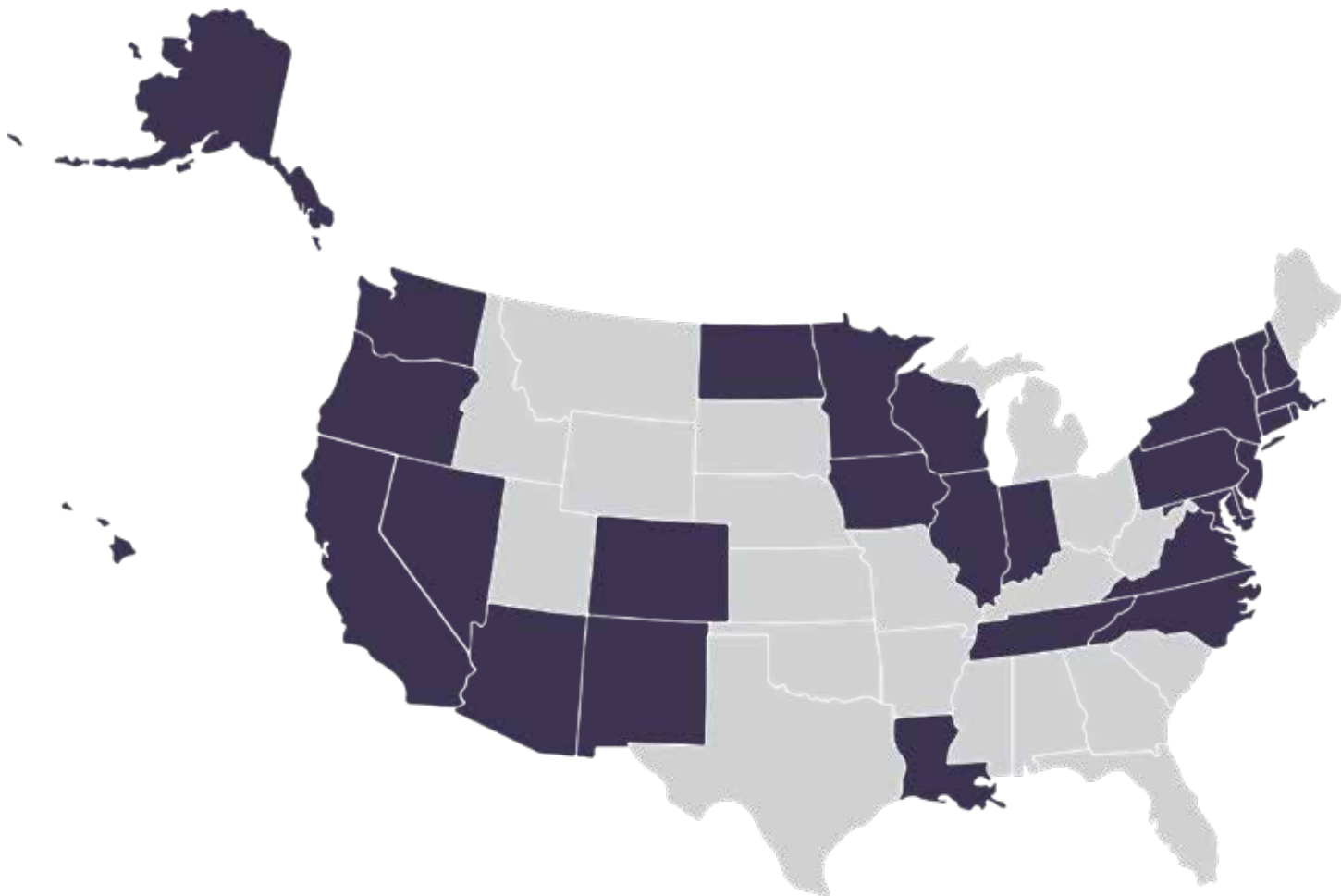
# State Statutes on Firearm Relinquishment in Cases Involving Intimate Partner Violence

# HOW TO USE THIS GUIDE

This chart includes information about state laws that speak to expressly authorized or mandated relinquishment orders in cases involving intimate partner violence. The information is current as of September 2024, may not be all-inclusive, and is intended only for educational and research purposes. State statutes are constantly changing. Additionally, the absence of statutory provisions related to relinquishment does not mean state and local authorities lack the authority to implement relinquishment processes. Please independently verify the information found in this document. If you have a correction or update, please [contact us](#).

# CONTENTS

|                           |    |                     |     |
|---------------------------|----|---------------------|-----|
| Alaska.....               | 4  | Nevada.....         | 56  |
| Arizona.....              | 5  | New Hampshire.....  | 60  |
| California.....           | 6  | New Jersey.....     | 62  |
| Colorado.....             | 16 | New Mexico.....     | 64  |
| Connecticut.....          | 31 | New York.....       | 67  |
| Delaware.....             | 33 | North Carolina..... | 78  |
| District of Columbia..... | 35 | North Dakota.....   | 82  |
| Hawaii.....               | 36 | Oregon.....         | 84  |
| Illinois.....             | 37 | Pennsylvania.....   | 89  |
| Indiana.....              | 40 | Rhode Island.....   | 102 |
| Iowa.....                 | 41 | Tennessee.....      | 106 |
| Louisiana.....            | 43 | Vermont.....        | 108 |
| Maryland.....             | 46 | Virginia.....       | 116 |
| Massachusetts.....        | 49 | Washington.....     | 118 |
| Minnesota.....            | 52 | Wisconsin.....      | 126 |



# ALASKA

Summary: Relinquishment order within DVPOs authorized in certain circumstances.

Highlighted Provisions:

**Alaska Stat. § 18.66.100(c)(7)**

(c) A protective order under this section may

...

(7) direct the respondent to surrender any firearm owned or possessed by the respondent if the court finds that the respondent was in the actual possession of or used a firearm during the commission of the domestic violence

# ARIZONA

Summary: Relinquishment order within DVPO authorized in certain circumstances.

Highlighted Provisions:

**Ariz. Rev. Stat. § 13-3602(G)(4)**

(G) If a court issues an order of protection, the court may do any of the following:

...

(4) If the court finds that the defendant is a credible threat to the physical safety of the plaintiff or other specifically designated persons, prohibit the defendant from possessing or purchasing a firearm for the duration of the order. If the court prohibits the defendant from possessing a firearm, the court shall also order the defendant to transfer any firearm owned or possessed by the defendant immediately after service of the order to the appropriate law enforcement agency for the duration of the order. If the defendant does not immediately transfer the firearm, the defendant shall transfer the firearm within twenty-four hours after service of the order.

# CALIFORNIA

## Summary: Relinquishment order required for convictions of certain offenses and qualifying DVPOs

Highlighted Provisions:

### **Criminal convictions**

#### **Cal. Penal Code § 29810**

(a)

(1) Upon conviction of any offense that renders a person subject to Section 29800, 29805, or 29815 [various restrictions on firearm access], the person shall relinquish all firearms they own, possess, or have under their custody or control in the manner provided in this section within 48 hours of the conviction if the defendant remains out of custody or within 14 days of the conviction if the defendant is in custody.

(2) The court shall, upon conviction of a defendant for an offense described in subdivision (a), instruct the defendant that they are prohibited from owning, purchasing, receiving, possessing, or having under their custody or control, any firearms, ammunition, and ammunition feeding devices, including, but not limited to, magazines, and shall order the defendant to relinquish all firearms in the manner provided in this section. The court shall also provide the defendant with a Prohibited Persons Relinquishment Form developed by the Department of Justice.

(3) Using the Prohibited Persons Relinquishment Form, the defendant shall name a designee and grant the designee power of attorney for the purpose of transferring or disposing of any firearms. The designee shall be either a local law enforcement agency or a consenting third party who is not prohibited from possessing firearms under state or federal law. The designee shall, within the time periods specified in subdivisions (d) and (e), surrender the firearms to the control of a local law enforcement agency, sell the firearms to a licensed firearms dealer, or transfer the firearms for storage to a firearms dealer pursuant to Section 29830.

(b) The Prohibited Persons Relinquishment Form shall do all of the following:

(1) Inform the defendant that they are prohibited from owning, purchasing, receiving, possessing, or having under their custody or control, any firearms, ammunition, and, if applicable, ammunition feeding devices, including, but not limited to, magazines, and that they shall relinquish all firearms through a designee within the time periods set forth in subdivision (d) or (e) by surrendering the firearms to the control of a local law enforcement

agency, selling the firearms to a licensed firearms dealer, or transferring the firearms for storage to a firearms dealer pursuant to Section 29830.

(2) Inform the defendant that any cohabitant of the defendant who owns firearms must store those firearms in accordance with Section 25135.

(3) Require the defendant to declare any firearms that they owned, possessed, or had under their custody or control at the time of their conviction, and require the defendant to describe the firearms and provide all reasonably available information about the location of the firearms to enable a designee or law enforcement officials to locate the firearms.

(4) Require the defendant to name a designee, if the defendant declares that they owned, possessed, or had under their custody or control any firearms at the time of their conviction, and grant the designee power of attorney for the purpose of transferring or disposing of all firearms.

(5) Require the designee to indicate their consent to the designation and, except a designee that is a law enforcement agency, to declare under penalty of perjury that they are not prohibited from possessing any firearms under state or federal law.

(6) Require the designee to state the date each firearm was relinquished and the name of the party to whom it was relinquished, and to attach receipts from the law enforcement officer or licensed firearms dealer who took possession of the relinquished firearms.

(7) Inform the defendant and the designee of the obligation to submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer within the time periods specified in subdivisions (d) and (e).

(c)

(1) When a defendant is convicted of an offense described in subdivision (a), the court shall immediately assign the matter to a probation officer to investigate whether the Automated Firearms System or other credible information, such as a police report, reveals that the defendant owns, possesses, or has under their custody or control any firearms. The assigned probation officer shall receive the Prohibited Persons Relinquishment Form from the defendant or the defendant's designee, as applicable, and ensure that the Automated Firearms System has been properly updated to indicate that the defendant has relinquished those firearms.

(2) Prior to final disposition or sentencing in the case, the assigned probation officer shall report to the court and the prosecuting attorney whether the defendant has properly complied with the requirements of this section by relinquishing all firearms identified by the probation officer's investigation or declared by the defendant on the Prohibited Persons Relinquishment Form, and by timely submitting a completed Prohibited Persons Relinquishment Form. The probation officer shall also report to the Department of Justice on a form to be developed by the department whether the Automated Firearms System has been updated to indicate which firearms have been relinquished by the defendant.

(3) If the report of the probation officer does not confirm relinquishment of firearms registered in the defendant's name, the court shall take one of the following actions:

(A) If the court finds probable cause, after a warrant request has been submitted pursuant to Section 1524, that the defendant has failed to relinquish any firearms as required, the court shall order a search warrant for, and removal of, any firearms at any location where the judge has probable cause to believe the defendant's firearms are located. The court shall set a court date to confirm relinquishment of all firearms. The search warrant shall be executed within 10 days pursuant to subdivision (a) of Section 1534.

(B) If the court finds good cause to extend the time for providing proof of relinquishment, the court shall set a court date within 14 days for the defendant to provide proof of relinquishment.

(C) If the court finds additional investigation is needed, the court shall refer the matter to the prosecuting attorney and set a court date within 14 days for status review.

(4) Prior to final disposition or sentencing in the case, the court shall confirm that the defendant has relinquished all firearms as required, and that the court has received a completed Prohibited Persons Relinquishment Form, along with the receipts described in paragraph (1) of subdivision (d) or paragraph (1) of subdivision (e). The court shall ensure that these findings are included in the abstract of judgment. If necessary to avoid a delay in sentencing, the court may make and enter these findings within 14 days of sentencing.

(5) Failure by a defendant to timely file the completed Prohibited Persons Relinquishment Form with the assigned probation officer shall constitute an infraction punishable by a fine not exceeding one hundred dollars (\$100).

(d) The following procedures shall apply to any defendant who is a prohibited person within the meaning of paragraph (1) of subdivision (a) who does not remain in custody at any time within the 48-hour period following conviction:

(1) The designee shall dispose of any firearms the defendant owns, possesses, or has under their custody or control within 48 hours of the conviction by surrendering the firearms to the control of a local law enforcement agency, selling the firearms to a licensed firearms dealer, or transferring the firearms for storage to a firearms dealer pursuant to Section 29830, in accordance with the wishes of the defendant. Any proceeds from the sale of the firearms shall become the property of the defendant. The law enforcement officer or licensed dealer taking possession of any firearms pursuant to this subdivision shall issue a receipt to the designee describing the firearms and listing any serial number or other identification on the firearms at the time of surrender.

(2) If the defendant owns, possesses, or has under their custody or control any firearms to relinquish, the defendant's designee shall submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer within 48 hours following the conviction, along with the receipts described in paragraph (1) of subdivision (d) showing the defendant's firearms were surrendered to a local law enforcement agency or sold or transferred to a licensed firearms dealer.



(3) If the defendant does not own, possess, or have under their custody or control any firearms to relinquish, they shall, within 48 hours following conviction, submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer, with a statement affirming that they have no firearms to be relinquished.

(e) The following procedures shall apply to any defendant who is a prohibited person within the meaning of paragraph (1) of subdivision (a) who is in custody at any point within the 48-hour period following conviction:

(1) The designee shall dispose of any firearms the defendant owns, possesses, or has under their custody or control within 14 days of the conviction by surrendering the firearms to the control of a local law enforcement agency, selling the firearms to a licensed firearms dealer, or transferring the firearms for storage to a firearms dealer pursuant to Section 29830, in accordance with the wishes of the defendant. Any proceeds from the sale of the firearms shall become the property of the defendant. The law enforcement officer or licensed dealer taking possession of any firearms pursuant to this subdivision shall issue a receipt to the designee describing the firearms and listing any serial number or other identification on the firearms at the time of surrender.

(2) If the defendant owns, possesses, or has under their custody or control any firearms to relinquish, the defendant's designee shall submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer, within 14 days following conviction, along with the receipts described in paragraph (1) of subdivision (e) showing the defendant's firearms were surrendered to a local law enforcement agency or sold or transferred to a licensed firearms dealer.

(3) If the defendant does not own, possess, or have under their custody or control any firearms to relinquish, they shall, within 14 days following conviction, submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer, with a statement affirming that they have no firearms to be relinquished.

(4) If the defendant is released from custody during the 14 days following conviction and a designee has not yet taken temporary possession of each firearm to be relinquished as described above, the defendant shall, within five days following their release, relinquish each firearm required to be relinquished pursuant to paragraph (1) of subdivision (d).

(f) For good cause, the court may shorten or enlarge the time periods specified in subdivisions (d) and (e), enlarge the time period specified in paragraph (3) of subdivision (c), or allow an alternative method of relinquishment.

(g) The defendant shall not be subject to prosecution for unlawful possession of any firearms declared on the Prohibited Persons Relinquishment Form if the firearms are relinquished as required.

(h) Any firearms that would otherwise be subject to relinquishment by a defendant under this section, but which are lawfully owned by a cohabitant of the defendant, shall be exempt from relinquishment, provided the defendant is notified that the cohabitant must store the firearm in accordance with Section 25135.

(i) A law enforcement agency shall update the Automated Firearms System to reflect any firearms that were relinquished to the agency pursuant to this section. A law enforcement agency shall retain a firearm that was relinquished to the agency pursuant to this section for 30 days after the date the firearm was relinquished. After the 30-day period has expired, the firearm is subject to destruction, retention, or other transfer by the agency, except upon the certificate of a judge of a court of record, or of the district attorney of the county, that the retention of the firearm is necessary or proper to the ends of justice, or if the defendant provides written notice of an intent to appeal a conviction for an offense described in subdivision (a), or if the Automated Firearms System indicates that the firearm was reported lost or stolen by the lawful owner. If the firearm was reported lost or stolen, the firearm shall be restored to the lawful owner, as soon as its use as evidence has been served, upon the lawful owner's identification of the weapon and proof of ownership, and after the law enforcement agency has complied with Chapter 2 (commencing with Section 33850) of Division 11 of Title 4. The agency shall notify the Department of Justice of the disposition of relinquished firearms pursuant to Section 34010.

(j) A city, county, or city and county, or a state agency may adopt a regulation, ordinance, or resolution imposing a charge equal to its administrative costs relating to the seizure, impounding, storage, or release of a firearm pursuant to Section 33880.

## **Criminal protective orders**

### **Cal. Rules of Court 4.700**

#### **Rule 4.700. Firearm relinquishment procedures for criminal protective orders**

##### **(a) Application of rule**

This rule applies when a court issues a criminal protective order under Penal Code section 136.2 during a criminal case or as a condition of probation under Penal Code section 1203.097(a)(2) against a defendant charged with a crime of domestic violence as defined in Penal Code section 13700 and Family Code section 6211.

##### **(b) Purpose**

This rule is intended to:

- (1) Assist courts issuing criminal protective orders to determine whether a defendant subject to such an order owns, possesses, or controls any firearms; and
- (2) Assist courts that have issued criminal protective orders to determine whether a defendant has complied with the court's order to relinquish or sell the firearms under Code of Civil Procedure section 527.9.

##### **(c) Setting review hearing**

(1) At any hearing where the court issues a criminal protective order, the court must consider all credible information, including information provided on behalf of the defendant, to determine if there is good cause to believe that the defendant has a firearm within his or her immediate possession or control.

(2) If the court finds good cause to believe that the defendant has a firearm within his or her immediate possession or control, the court must set a review hearing to ascertain whether the defendant has complied with the requirement to relinquish the firearm as specified in Code of Civil Procedure section 527.9. Unless the defendant is in custody at the time, the review hearing should occur within two court days after issuance of the criminal protective order. If circumstances warrant, the court may extend the review hearing to occur within 5 court days after issuance of the criminal protective order. The court must give the defendant an opportunity to present information at the review hearing to refute the allegation that he or she owns any firearms. If the defendant is in custody at the time the criminal protective order is issued, the court should order the defendant to appear for a review hearing within two court days after the defendant's release from custody.

(3) If the proceeding is held under Penal Code section 136.2, the court may, under Penal Code section 977(a)(2), order the defendant to personally appear at the review hearing. If the proceeding is held under Penal Code section 1203.097, the court should order the defendant to personally appear.

**(d) Review hearing**

(1) If the court has issued a criminal protective order under Penal Code section 136.2, at the review hearing:

(A) If the court finds that the defendant has a firearm in or subject to his or her immediate possession or control, the court must consider whether bail, as set, or defendant's release on own recognizance is appropriate.

(B) If the defendant does not appear at the hearing and the court orders that bail be revoked, the court should issue a bench warrant.

(2) If the criminal protective order is issued as a condition of probation under Penal Code section 1203.097, and the court finds at the review hearing that the defendant has a firearm in or subject to his or her immediate possession or control, the court must proceed under Penal Code section 1203.097(a)(12).

(3) In any review hearing to determine whether a defendant has complied with the requirement to relinquish firearms as specified in Code of Civil Procedure section 527.9, the burden of proof is on the prosecution.

**DVPOs**

**Cal. Family Code § 6389(b)-(m)**

(b) On all forms providing notice that a protective order has been requested or granted, the Judicial Council shall include a notice that, upon service of the order, the respondent shall be ordered to relinquish possession or control of any firearms or ammunition and not to purchase or receive or attempt to purchase or receive any firearms or ammunition for a period not to exceed the duration of the restraining order.

(c)

(1) Upon issuance of a protective order, as defined in Section 6218, the court shall order the respondent to relinquish any firearm or ammunition in the respondent's immediate possession or control or subject to the respondent's immediate possession or control.

(2) The relinquishment ordered pursuant to paragraph (1) shall occur by immediately surrendering the firearm or ammunition in a safe manner, upon request of a law enforcement officer, to the control of the officer, after being served with the protective order. A law enforcement officer serving a protective order that indicates that the respondent possesses weapons or ammunition shall request that the firearm or ammunition be immediately surrendered. Alternatively, if a request is not made by a law enforcement officer, the relinquishment shall occur within 24 hours of being served with the order, by either surrendering the firearm or ammunition in a safe manner to the control of local law enforcement officials, or by selling, transferring, or relinquishing for storage pursuant to Section 29830 of the Penal Code, the firearm or ammunition to a licensed gun dealer, as specified in Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6 of the Penal Code. The law enforcement officer or licensed gun dealer taking possession of the firearm or ammunition pursuant to this subdivision shall issue a receipt to the person relinquishing the firearm or ammunition at the time of relinquishment. A person ordered to relinquish a firearm or ammunition pursuant to this subdivision shall, within 48 hours after being served with the order, do both of the following:

(A) File, with the court that issued the protective order, the receipt showing the firearm or ammunition was surrendered to a local law enforcement agency or sold to a licensed gun dealer. Failure to timely file a receipt shall constitute a violation of the protective order.

(B) File a copy of the receipt described in subparagraph (A) with the law enforcement agency that served the protective order. Failure to timely file a copy of the receipt shall constitute a violation of the protective order.

(3) The forms for protective orders adopted by the Judicial Council and approved by the Department of Justice shall require the petitioner to describe the number, types, and locations of any firearms or ammunition presently known by the petitioner to be possessed or controlled by the respondent.

(4) A court holding a hearing on this matter shall review the file to determine whether the receipt has been filed and inquire of the respondent whether they have complied with the requirement. Violations of the firearms prohibition of any restraining order under this section shall be reported to the prosecuting attorney in the jurisdiction where the order has been issued within two business days of the court hearing unless the restrained party provides a receipt showing compliance at a subsequent hearing or by direct filing with the clerk of the court.

(5) Every law enforcement agency in the state shall develop, adopt, and implement written policies and standards for law enforcement officers who request immediate relinquishment of firearms or ammunition.

(d) If the respondent declines to relinquish possession of a firearm or ammunition based on the assertion of the right against self-incrimination, as provided by the Fifth Amendment to the United States Constitution and Section 15 of Article I of the California Constitution, the court may grant use immunity for the act of relinquishing the firearm or ammunition required under this section.

(e) A local law enforcement agency may charge the respondent a fee for the storage of a firearm or ammunition pursuant to this section. This fee shall not exceed the actual cost incurred by the local law enforcement agency for the storage of the firearm or ammunition. For purposes of this subdivision, “actual cost” means expenses directly related to taking possession of a firearm or ammunition, storing the firearm or ammunition, and surrendering possession of the firearm or ammunition to a licensed dealer as defined in Section 26700 of the Penal Code or to the respondent.

(f) The restraining order requiring a person to relinquish a firearm or ammunition pursuant to subdivision (c) shall state on its face that the respondent is prohibited from owning, possessing, purchasing, or receiving a firearm or ammunition while the protective order is in effect and that the firearm or ammunition shall be relinquished to the local law enforcement agency for that jurisdiction or sold to a licensed gun dealer, and that proof of surrender or sale shall be filed with the court within a specified period of receipt of the order. The order shall also state on its face the expiration date for relinquishment. This section does not limit a respondent’s right under existing law to petition the court at a later date for modification of the order.

(g) The restraining order requiring a person to relinquish a firearm or ammunition pursuant to subdivision (c) shall prohibit the person from possessing or controlling a firearm or ammunition for the duration of the order. At the expiration of the order, the local law enforcement agency shall return possession of the surrendered firearm or ammunition to the respondent, within five days after the expiration of the relinquishment order, unless the local law enforcement agency determines that (1) the firearm or ammunition has been stolen, (2) the respondent is prohibited from possessing a firearm or ammunition because the respondent is in a prohibited class for the possession of firearms or ammunition, as defined in Chapter 2 (commencing with Section 29800) and Chapter 3 (commencing with Section 29900) of Division 9 of Title 4 of Part 6 of the Penal Code, Section 30305 of the Penal Code, and Sections 8100 and 8103 of the Welfare and Institutions Code, or (3) another successive restraining order is issued against the respondent under this section. If the local law enforcement agency determines that the respondent is the legal owner of a firearm or ammunition deposited with the local law enforcement agency and is prohibited from possessing a firearm or ammunition, the respondent shall be entitled to sell or transfer the firearm or ammunition to a licensed dealer as defined in Section 26700 of the Penal Code. If the firearm or ammunition has been stolen, the firearm or ammunition shall be restored to the lawful owner upon the owner identifying the firearm and ammunition and providing proof of ownership.

(h) The court may, as part of the relinquishment order, grant an exemption from the relinquishment requirements of this section for a particular firearm or ammunition if the

respondent can show that a particular firearm or ammunition is necessary as a condition of continued employment and that the current employer is unable to reassign the respondent to another position where a firearm or ammunition is unnecessary. If an exemption is granted pursuant to this subdivision, the order shall provide that the firearm or ammunition shall be in the physical possession of the respondent only during scheduled work hours and during travel to and from the place of employment. When a peace officer is required, as a condition of employment, to carry a firearm or ammunition and whose personal safety depends on the ability to carry a firearm or ammunition a court may allow the peace officer to continue to carry a firearm or ammunition, either on duty or off duty, if the court finds by a preponderance of the evidence that the officer does not pose a threat of harm. Prior to making this finding, the court shall require a mandatory psychological evaluation of the peace officer and may require the peace officer to enter into counseling or other remedial treatment program to deal with any propensity for domestic violence.

(i) During the period of the relinquishment order, a respondent is entitled to make one sale of all firearms or ammunition that are in the possession of a local law enforcement agency pursuant to this section. A licensed gun dealer, who presents a local law enforcement agency with a bill of sale indicating that all firearms or ammunition owned by the respondent that are in the possession of the local law enforcement agency have been sold by the respondent to the licensed gun dealer, shall be given possession of those firearms or ammunition, at the location where a respondent's firearms or ammunition are stored, within five days of presenting the local law enforcement agency with a bill of sale.

(j) The disposition of any unclaimed property under this section shall be made pursuant to Section 1413 of the Penal Code.

(k) The relinquishment of a firearm to a law enforcement agency pursuant to subdivision (g) or the return of a firearm to a person pursuant to subdivision (g) shall not be subject to the requirements of Section 27545 of the Penal Code.

(l) If the respondent notifies the court that the respondent owns a firearm or ammunition that is not in their immediate possession, the court may limit the order to exclude that firearm or ammunition if the judge is satisfied the respondent is unable to gain access to that firearm or ammunition while the protective order is in effect.

(m) A respondent to a protective order who violates an order issued pursuant to this section shall be punished under the provisions of Section 29825 of the Penal Code.

#### **Cal. Penal Code § 29825(d)**

(d) The Judicial Council shall provide notice on all protective orders issued within the state that the respondent is prohibited from owning, possessing, purchasing, receiving, or attempting to purchase or receive a firearm while the protective order is in effect. The order shall also state that a firearm owned or possessed by the person shall be relinquished to the local law enforcement agency for that jurisdiction, sold to a licensed firearms dealer, or transferred to a licensed firearms dealer pursuant to Section 29830 for the duration of the period that the

protective order is in effect, and that proof of surrender or sale shall be filed within a specified time of receipt of the order. The order shall state the penalties for a violation of the prohibition. The order shall also state on its face the expiration date for relinquishment.

# COLORADO

Summary: Relinquishment order required upon issuance of qualifying civil DVPOs and criminal protection orders in domestic violence cases and upon conviction for crimes of domestic violence.

Highlighted Provisions:

## **Criminal convictions for domestic violence**

### **Colo. Rev. Stat. § 18-6-801(8)**

(8)

(a) Sentencing requirements. In addition to any sentence that is imposed upon a defendant for violation of any criminal law under this title 18, if a defendant is convicted of any crime, the underlying factual basis of which is found by the court on the record to be a misdemeanor crime of domestic violence, as defined in 18 U.S.C. sec. 921(a)(33), or that is punishable by a term of imprisonment exceeding one year and includes an act of domestic violence, as defined in section 18-6-800.3(1), the court:

(I) Shall order the defendant to:

(A) Refrain from possessing or purchasing any firearm or ammunition until the defendant's sentence is satisfied; and

(B) Relinquish any firearm or ammunition in the defendant's immediate possession or control or subject to the defendant's immediate possession or control; and

(II) May require that before the defendant is released from custody on bond, the defendant relinquish any firearm or ammunition in the defendant's immediate possession or control or subject to the defendant's immediate possession or control; and

(III) Shall schedule a compliance hearing pursuant to subsection (8)(e) of this section and notify the defendant of the hearing date and that the defendant shall appear at the hearing in person unless the hearing is vacated pursuant to subsection (8)(e)(I) of this section.

(b) Time period to relinquish. The defendant shall relinquish, in accordance with subsection (8)(d) of this section, any firearm or ammunition not more than twenty-four hours, excluding legal holidays and weekends, after sentencing; except that a court may allow a defendant up to an additional twenty-four hours to relinquish a firearm if the defendant demonstrates to the satisfaction of the court that the defendant is unable to comply within the time frame set forth in this subsection (8)(b).



(c) Additional time to comply if defendant is in custody. If a defendant is unable to satisfy the provisions of this subsection (8) because the defendant is incarcerated or otherwise held in the custody of a law enforcement agency, the court shall require the defendant to satisfy the provisions not more than twenty-four hours, excluding legal holidays and weekends, after the defendant's release from incarceration or custody or be held in contempt of court. Notwithstanding any provision of this subsection (8)(c), the court may, in its discretion, require the defendant to relinquish any firearm or ammunition in the defendant's immediate possession or control or subject to the defendant's immediate possession or control before the end of the defendant's incarceration. In such a case, a defendant's failure to relinquish a firearm or ammunition as required constitutes contempt of court.

(d) Relinquishment options. To satisfy the requirement in subsection (8)(b) of this section, the defendant shall either:

(I) Sell or transfer possession of the firearm or ammunition to a federally licensed firearms dealer described in 18 U.S.C. sec. 923, as amended; except that this provision must not be interpreted to require any federally licensed firearms dealer to purchase or accept possession of any firearm or ammunition; or

(II) Arrange for the storage of the firearm or ammunition by a law enforcement agency or by a storage facility with which the law enforcement agency has contracted for the storage of transferred firearms or ammunition, pursuant to subsection (8)(g) of this section; except that this provision must not be interpreted to require any law enforcement agency to provide storage of firearms or ammunition for any person; or

(III) Sell or otherwise transfer the firearm or ammunition to a private party who may legally possess the firearm or ammunition; except that a defendant who sells or transfers a firearm pursuant to this subsection (8)(d)(III) shall satisfy all of the provisions of section 18-12-112 concerning private firearms transfers, including but not limited to the performance of a criminal background check of the transferee.

(e) Compliance hearing and affidavit.

(I) The court shall conduct a compliance hearing not less than eight but not more than twelve business days after sentencing to ensure the defendant has complied with subsection (8)(e)(II) of this section. The court may vacate the hearing if the court determines the defendant has completed the affidavit described in subsection (8)(e)(II) of this section. Failure to appear at a hearing described in this subsection (8)(e)(I) constitutes contempt of court.

(II) The defendant shall complete an affidavit, which must be filed in the court record within seven business days after sentencing, stating the number of firearms in the defendant's immediate possession or control or subject to the defendant's immediate possession or control, the make and model of each firearm, any reason the defendant is still in immediate possession or control of such firearm, and the location of each firearm. If the defendant does not possess a firearm at the time of sentencing, the defendant shall indicate such nonpossession in the affidavit.

(III) If the defendant possessed a firearm at the time of the qualifying incident giving rise to the duty to relinquish the firearm pursuant to this section but transferred or sold the firearm to a private party prior to sentencing, the defendant shall disclose the sale or transfer of the firearm to the private party in the affidavit described in subsection (8)(e)(II) of this section. The defendant, within seven business days after sentencing, shall acquire a written receipt and signed declaration that complies with subsection (8)(h)(I)(A) of this section, and the defendant shall file the signed declaration at the same time the defendant files the affidavit pursuant to subsection (8)(e)(II) of this section.

(IV) The state court administrator shall develop the affidavit described in subsection (8)(e)(II) of this section and all other forms necessary to implement this subsection (8) no later than January 1, 2022. State courts may use the forms developed by the state court administrator pursuant to this subsection (8)(e) or another form of the court's choosing, so long as the forms comply with the requirements of this subsection (8)(e).

(V) Upon the sworn statement or testimony of the petitioner or of any law enforcement officer alleging there is probable cause to believe the respondent has failed to comply with the provisions of this section, the court shall determine whether probable cause exists to believe that the respondent has failed to relinquish all firearms or a concealed carry permit in the respondent's custody, control, or possession. If probable cause exists, the court shall issue a search warrant that states with particularity the places to be searched and the items to be taken into custody.

(f) Relinquishment to a federally licensed firearms dealer. A federally licensed firearms dealer who takes possession of a firearm or ammunition pursuant to this subsection (8) shall issue a written receipt and signed declaration to the defendant at the time of relinquishment. The declaration must memorialize the sale or transfer of the firearm. The federally licensed firearms dealer shall not return the firearm or ammunition to the defendant unless the dealer:

(I) Contacts the Colorado bureau of investigation, referred to in this subsection (8) as the "bureau", to request that a criminal background check of the defendant be performed; and

(II) Obtains approval of the transfer from the bureau after the performance of the criminal background check.

(g) Storage by a law enforcement agency or storage facility.

(I) A local law enforcement agency may elect to store firearms or ammunition for a defendant pursuant to this subsection (8). The law enforcement agency may enter into an agreement with any other law enforcement agency or storage facility for the storage of transferred firearms or ammunition. If a law enforcement agency elects to store firearms or ammunition for a defendant:

(A) The law enforcement agency may charge a fee for the storage, the amount of which must not exceed the direct and indirect costs incurred by the law enforcement agency in providing the storage;

(B) The law enforcement agency shall establish policies for disposal of abandoned or stolen firearms or ammunition; and

(C) The law enforcement agency shall issue a written receipt and signed declaration to the defendant at the time of relinquishment. The declaration must memorialize the sale or transfer of the firearm.

(II) If a local law enforcement agency elects to store firearms or ammunition for a defendant pursuant to this subsection (8)(g), the law enforcement agency shall not return the firearm or ammunition to the defendant unless the law enforcement agency:

(A) Contacts the bureau to request that a criminal background check of the defendant be performed; and

(B) Obtains approval of the transfer from the bureau after the performance of the criminal background check.

(III)

(A) A law enforcement agency that elects to store a firearm or ammunition for a defendant pursuant to this subsection (8) may elect to cease storing the firearm or ammunition. A law enforcement agency that elects to cease storing a firearm or ammunition for a defendant shall notify the defendant of the decision and request that the defendant immediately make arrangements for the transfer of the possession of the firearm or ammunition to the defendant or, if the defendant is prohibited from possessing a firearm, to another person who is legally permitted to possess a firearm.

(B) If a law enforcement agency elects to cease storing a firearm or ammunition for a defendant and notifies the defendant as described in subsection (8)(g)(III)(A) of this section, the law enforcement agency may dispose of the firearm or ammunition if the defendant fails to make arrangements for the transfer of the firearm or ammunition and complete the transfer within ninety days after receiving the notification.

(IV) A law enforcement agency that elects to store a firearm or ammunition shall obtain a search warrant to examine or test the firearm or ammunition or facilitate a criminal investigation if a law enforcement agency has probable cause to believe the firearm or ammunition has been used in the commission of a crime, is stolen, or is contraband. This subsection (8)(g)(IV) does not preclude a law enforcement agency from conducting a routine inspection of the firearm or ammunition prior to accepting the firearm for storage.

(h) Relinquishment to a private party.

(I) If a defendant sells or otherwise transfers a firearm or ammunition to a private party who may legally possess the firearm or ammunition, as described in subsection (8)(d)(III) of this section, the defendant shall acquire:

(A) From the federally licensed firearms dealer, a written receipt and signed declaration memorializing the transfer, which receipt must be dated and signed by the defendant, the transferee, and the federally licensed firearms dealer; and

(B) From the federally licensed firearms dealer who requests from the bureau a criminal background check of the transferee, as described in section 18-12-112, a written statement of the results of the criminal background check.

(II) The defendant shall not transfer the firearm to a private party living in the same residence as the defendant at the time of the transfer.

(III) Notwithstanding section 18-12-112, if a private party elects to store a firearm for a defendant pursuant to this subsection (8), the private party shall not return the firearm to the defendant unless the private party acquires from the federally licensed firearms dealer, who requests from the bureau a criminal background check of the defendant, a written statement of the results of the criminal background check authorizing the return of the firearm to the defendant.

(i) Requirement to file signed declaration.

(I) The defendant shall file a copy of the signed declaration issued pursuant to subsection (8)(f), (8)(g)(I)(C), or (8)(h)(I)(A) of this section, and, if applicable, the written statement of the results of a criminal background check performed on the defendant, as described in subsection (8)(h)(I)(B) of this section, with the court as proof of the relinquishment at the same time the defendant files the signed affidavit pursuant to subsection (8)(e)(II) of this section. The signed declaration and written statement filed pursuant to this subsection (8)(i) are only available for inspection by the court and the parties to the proceeding. If a defendant fails to timely transfer or sell a firearm or file the signed declaration or written statement as described in this subsection (8)(i)(I):

(A) The failure constitutes a class 2 misdemeanor, and the defendant is punished as provided in section 18-1.3-501; and

(B) The court shall issue a warrant for the defendant's arrest.

(II) In any subsequent prosecution for a violation of this subsection (8)(i), the court shall take judicial notice of the defendant's failure to transfer or sell a firearm, or file the signed declaration or written statement, which constitutes prima facie evidence that the defendant has violated this subsection (8), and testimony of the clerk of the court or the clerk of the court's deputy is not required.

(j)

(I) A law enforcement agency that elects in good faith to not store a firearm or ammunition for a defendant pursuant to subsection (8)(g) of this section is not criminally or civilly liable for such inaction.

(II) A law enforcement agency that returns possession of a firearm or ammunition to a defendant in good faith as permitted by subsection (8)(g) of this section is not criminally or civilly liable for such action.

(k) Immunity. A federally licensed firearms dealer, law enforcement agency, storage facility, or private party that elects to store a firearm pursuant to this subsection (8) is not civilly liable for any resulting damages to the firearm, as long as such damage did not result from the willful and wrongful act or gross negligence of the federally licensed firearms dealer, law enforcement agency, storage facility, or third party.”

## Criminal protection orders in domestic violence cases

### Colo. Rev. Stat. Ann. § 18-1-1001(9)

(9)

(a) Order requirements. When the court subjects a defendant to a mandatory protection order that the court, using the probable cause standard of review, determines on the record after reviewing the probable cause statement or arrest warrant that the order includes a crime that includes an act of domestic violence, as defined in section 18-6-800.3(1), and the act of domestic violence involved the threat of use, use of, or attempted use of physical force, the court, as part of such order:

(I) Shall order the defendant to:

(A) Refrain from possessing or purchasing any firearm or ammunition for the duration of the order; and

(B) Relinquish, for the duration of the order, any firearm or ammunition in the defendant's immediate possession or control or subject to the defendant's immediate possession or control; and

(II) May require that before the defendant is released from custody on bond, the defendant relinquish, for the duration of the order, any firearm or ammunition in the defendant's immediate possession or control or subject to the defendant's immediate possession or control; and

...

(b) **Time period to relinquish.** Upon issuance of an order pursuant to subsection (9)(a) of this section, the defendant shall relinquish, in accordance with subsection (9)(d) of this section, any firearm or ammunition not more than twenty-four hours, excluding legal holidays and weekends, after being served with the order; except that a court may allow a defendant additional time based on a showing of good cause to relinquish a firearm if the defendant demonstrates to the satisfaction of the court that the defendant is unable to comply within the time frame set forth in this subsection (9)(b).

(c) **Additional time to comply if defendant is in custody.** If a defendant is unable to satisfy the provisions of this subsection (9) because the defendant is incarcerated or otherwise held in the custody of a law enforcement agency, the court shall require the defendant to satisfy the provisions of this subsection (9) not more than twenty-four hours, excluding legal holidays and weekends, after the defendant's release from incarceration or custody or be held in contempt of court. Notwithstanding any provision of this subsection (9)(c), the court may, in its discretion, require the defendant to relinquish any firearm or ammunition in the defendant's immediate possession or control or subject to the defendant's immediate possession or control before the end of the defendant's incarceration or release from custody. In such a case, a defendant's failure to relinquish a firearm or ammunition as required constitutes contempt of court.

(d) **Relinquishment options.** To satisfy the requirement in subsection (9)(b) of this section, the defendant shall either:

(I) Sell or transfer possession of the firearm or ammunition to a federally licensed firearms dealer described in 18 U.S.C. sec. 923, as amended; except that this provision must not be interpreted to require any federally licensed firearms dealer to purchase or accept possession of any firearm or ammunition; or

(II) Arrange for the storage of the firearm or ammunition by a law enforcement agency or by a storage facility with which the law enforcement agency has contracted for the storage of transferred firearms or ammunition, pursuant to subsection (9)(g) of this section; except that this provision must not be interpreted to require any law enforcement agency to provide storage of firearms or ammunition for any person; or

(III) Sell or otherwise transfer the firearm or ammunition to a private party who may legally possess the firearm or ammunition; except that a defendant who sells or transfers a firearm pursuant to this subsection (9)(d)(III) shall satisfy all of the provisions of section 18-12-112 concerning private firearms transfers, including but not limited to the performance of a criminal background check of the transferee.

(e) **Compliance hearing, conditions of release on bond, and affidavit.**

(I) The court shall conduct a compliance hearing to ensure the defendant has complied with this subsection (9) by requiring the defendant to comply with subsection (9)(e)(II) of this section. The court may consider the issue in other proceedings before the court in the criminal case. The hearing is considered a court action involving a bond reduction or modification as described in section 24-4.1-302(2)(c). A defendant shall comply with section 16-4-105(4.1) as it relates to the conditions of release on bond. The court may vacate the hearing if the court determines that the defendant has completed the affidavit described in subsection (9)(e)(II) of this section. Failure to appear at a hearing described in this subsection (9)(e)(I) constitutes contempt of court.

(II) The defendant shall complete an affidavit, which must be filed in the court record within seven business days after the order is issued, stating the number of firearms in the defendant's immediate possession or control or subject to the defendant's immediate possession or control, the make and model of each firearm, any reason the defendant is still in immediate possession or control of such firearm, and the location of each firearm. If the defendant does not possess a firearm at the time the order is issued pursuant to subsection (9)(a) of this section, the defendant shall indicate such nonpossession in the affidavit.

(III) If the defendant possessed a firearm at the time of the qualifying incident giving rise to the duty to relinquish the firearm pursuant to this subsection (9) but transferred or sold the firearm to a private party prior to the court's issuance of the order, the defendant shall disclose the sale or transfer of the firearm to the private party in the affidavit described in subsection (9)(e)(II) of this section. The defendant, within seven business days after the relinquishment period established by the court pursuant to this subsection (9), shall

acquire a written receipt and signed declaration that complies with subsection (9)(h)(I)(A) of this section, and the defendant shall file the signed declaration at the same time the defendant files the affidavit pursuant to subsection (9)(e)(II) of this section.

(IV) No testimony or other information compelled pursuant to this subsection (9), or any information directly or indirectly derived from such testimony or other information, may be used against the defendant in any criminal case, except prosecution for perjury pursuant to section 18-8-503.

(V) The state court administrator shall develop the affidavit described in subsection (9)(e)(II) of this section and all other forms necessary to implement this subsection (9) no later than January 1, 2022. State courts may use the forms developed by the state court administrator pursuant to this subsection (9)(e) or another form of the court's choosing, so long as the forms comply with the requirements of this subsection (9)(e).

(VI) Upon the sworn statement or testimony of the petitioner or of any law enforcement officer alleging there is probable cause to believe the respondent has failed to comply with the provisions of this section, the court shall determine whether probable cause exists to believe that the respondent has failed to relinquish all firearms or a concealed carry permit in the respondent's custody, control, or possession. If probable cause exists, the court shall issue a search warrant that states with particularity the places to be searched and the items to be taken into custody.

**(f) Relinquishment to a federally licensed firearms dealer.** A federally licensed firearms dealer who takes possession of a firearm or ammunition pursuant to this subsection (9) shall issue a written receipt and signed declaration to the defendant at the time of relinquishment. The declaration must memorialize the sale or transfer of the firearm. The federally licensed firearms dealer shall not return the firearm or ammunition to the defendant unless the dealer:

(I) Contacts the Colorado bureau of investigation, referred to in this subsection (9) as the "bureau", to request that a criminal background check of the defendant be performed; and

(II) Obtains approval of the transfer from the bureau after the performance of the criminal background check.

**(g) Storage by a law enforcement agency or storage facility.**

(I) A local law enforcement agency may elect to store firearms or ammunition for a defendant pursuant to this subsection (9). The law enforcement agency may enter into an agreement with any other law enforcement agency or storage facility for the storage of transferred firearms or ammunition. If a law enforcement agency elects to store firearms or ammunition for a defendant:

(A) The law enforcement agency may charge a fee for the storage, the amount of which must not exceed the direct and indirect costs incurred by the law enforcement agency in providing the storage;

(B) The law enforcement agency shall establish policies for disposal of abandoned or stolen firearms or ammunition; and

(C) The law enforcement agency shall issue a written receipt and signed declaration to the defendant at the time of relinquishment. The declaration must memorialize the sale or transfer of the firearm.

(II) If a local law enforcement agency elects to store firearms or ammunition for a defendant pursuant to this subsection (9)(g), the law enforcement agency shall not return the firearm or ammunition to the defendant unless the law enforcement agency:

(A) Contacts the bureau to request that a criminal background check of the defendant be performed; and

(B) Obtains approval of the transfer from the bureau after the performance of the criminal background check.

(III)

(A) A law enforcement agency that elects to store a firearm or ammunition for a defendant pursuant to this subsection (9) may elect to cease storing the firearm or ammunition. A law enforcement agency that elects to cease storing a firearm or ammunition for a defendant shall notify the defendant of the decision and request that the defendant immediately make arrangements for the transfer of the possession of the firearm or ammunition to the defendant or, if the defendant is prohibited from possessing a firearm, to another person who is legally permitted to possess a firearm.

(B) If a law enforcement agency elects to cease storing a firearm or ammunition for a defendant and notifies the defendant as described in subsection (9)(g)(III)(A) of this section, the law enforcement agency may dispose of the firearm or ammunition if the defendant fails to make arrangements for the transfer of the firearm or ammunition and complete the transfer within ninety days after receiving the notification.

(IV) A law enforcement agency that elects to store a firearm or ammunition shall obtain a search warrant to examine or test the firearm or ammunition or facilitate a criminal investigation if a law enforcement agency has probable cause to believe the firearm or ammunition has been used in the commission of a crime, is stolen, or is contraband. This subsection (9)(g)(IV) does not preclude a law enforcement agency from conducting a routine inspection of the firearm or ammunition prior to accepting the firearm for storage.

**(h) Relinquishment to a private party.**

(I) If a defendant sells or otherwise transfers a firearm or ammunition to a private party who may legally possess the firearm or ammunition, as described in subsection (9)(d)(III) of this section, the defendant shall acquire:

(A) From the federally licensed firearms dealer, a written receipt and signed declaration memorializing the transfer, which receipt must be dated and signed by the defendant, the transferee, and the federally licensed firearms dealer; and

(B) From the federally licensed firearms dealer who requests from the bureau a criminal background check of the transferee, as described in section 18-12-112, a written statement of the results of the criminal background check.



(II) The defendant shall not transfer the firearm to a private party living in the same residence as the defendant at the time of the transfer.

(III) Notwithstanding section 18-12-112, if a private party elects to store a firearm for a defendant pursuant to this subsection (9), the private party shall not return the firearm to the defendant unless the private party acquires from the federally licensed firearms dealer who requests from the bureau a criminal background check of the defendant, a written statement of the results of the background check authorizing the return of the firearm to the defendant.

**(i) Requirement to file signed declaration.**

(I) The defendant shall file a copy of the signed declaration issued pursuant to subsection (9)(f), (9)(g)(I)(C), or (9)(h)(I)(A) of this section, and, if applicable, the written statement of the results of a criminal background check performed on the defendant, as described in subsection (9)(h)(I)(B) of this section, with the court as proof of the relinquishment at the same time the defendant files the signed affidavit pursuant to subsection (9)(e)(II) of this section. The signed declaration and written statement filed pursuant to this subsection (9)(i) are only available for inspection by the court and the parties to the proceeding. If a defendant fails to timely transfer or sell a firearm or file the signed declaration or written statement as described in this subsection (9)(i)(I):

(A) The failure constitutes a violation of the protection order pursuant to section 18-6-803.5(1)(c); and

(B) The court shall issue a warrant for the defendant's arrest.

(II) In any subsequent prosecution for a violation of a protection order described in this subsection (9)(i), the court shall take judicial notice of the defendant's failure to transfer or sell a firearm, or file the signed declaration or written statement, which constitutes prima facie evidence of a violation of the protection order pursuant to section 18-6-803.5(1)(c), and testimony of the clerk of the court or the clerk of the court's deputy is not required.

(j) Nothing in this subsection (9) limits a defendant's right to petition the court for dismissal of a protection order.

(k) A defendant subject to a mandatory protection order issued pursuant to this subsection (9) who possesses or attempts to purchase or receive a firearm or ammunition while the protection order is in effect violates the order pursuant to section 18-6-803.5(1)(c).

(l)

(I) A law enforcement agency that elects in good faith to not store a firearm or ammunition for a defendant pursuant to subsection (9)(g) of this section is not criminally or civilly liable for such inaction.

(II) A law enforcement agency that returns possession of a firearm or ammunition to a defendant in good faith as permitted by subsection (9)(g) of this section is not criminally or civilly liable for such action.

(m) **Immunity.** A federally licensed firearms dealer, law enforcement agency, storage facility, or private party that elects to store a firearm pursuant to this subsection (9) is not civilly liable for any resulting damages to the firearm, as long as such damage did not result from the willful and wrongful act or gross negligence of the federally licensed firearms dealer, law enforcement agency, storage facility, or private party.

## Civil DVPOs

### § 13-14-105.5. Civil protection orders--prohibition on possessing or purchasing a firearm

(1) **Order requirements.** If the court subjects a respondent to a civil protection order and the court determines on the record after reviewing the petition for the protection order that the protection order includes an act of domestic violence, as defined in section 18-6-800.3(1), and the act of domestic violence involved the threat of use, use of, or attempted use of physical force, the court, as part of such order:

(a) Shall order the respondent to:

(I) Refrain from possessing or purchasing any firearm or ammunition for the duration of the order; and

(II) Relinquish, for the duration of the order, any firearm or ammunition in the respondent's immediate possession or control or subject to the respondent's immediate possession or control; and

(b) May require that before the respondent is released from custody on bond, the respondent relinquish, for the duration of the order, any firearm or ammunition in the respondent's immediate possession or control or subject to the respondent's immediate possession or control; and

(c) Shall schedule a compliance hearing pursuant to subsection (5)(a) of this section and notify the respondent of the hearing date and that the respondent shall appear at the hearing in person unless the hearing is vacated pursuant to subsection (5)(a) of this section.

(2) **Time period to relinquish.** (a) Except as described in subsection (2)(b) of this section, upon issuance of an order pursuant to subsection (1) of this section, the respondent shall relinquish, in accordance with subsection (4) of this section, any firearm or ammunition:

(I) Not more than twenty-four hours, excluding legal holidays and weekends, after being served with the order in open court; or

(II) Not more than forty-eight hours, excluding legal holidays and weekends, after being served with the order outside of the court.

(b) Notwithstanding subsection (2)(a) of this section, a court may allow a respondent up to an additional twenty-four hours to relinquish a firearm if the respondent demonstrates to the satisfaction of the court that the respondent is unable to comply within the time frame set forth in subsection (2)(a) of this section.

(3) **Additional time to comply if respondent in custody.** If a respondent is unable to satisfy the provisions of this section because the respondent is incarcerated or otherwise held in the custody of a law enforcement agency, the court shall require the respondent to satisfy the provisions of this section not more than twenty-four hours, excluding legal holidays and weekends, after the respondent's release from incarceration or custody, or be held in contempt of court. Notwithstanding any provision of this subsection (3), the court may, in its discretion, require the respondent to relinquish any firearm or ammunition in the respondent's immediate possession or control or subject to the respondent's immediate possession or control before the end of the respondent's incarceration. In such a case, a respondent's failure to relinquish a firearm or ammunition as required constitutes contempt of court.

(4) **Relinquishment options.** To satisfy the requirement in subsection (2) of this section, the respondent shall either:

(a) Sell or transfer possession of the firearm or ammunition to a federally licensed firearms dealer described in 18 U.S.C. sec. 923, as amended; except that this provision must not be interpreted to require any federally licensed firearms dealer to purchase or accept possession of any firearm or ammunition; or

(b) Arrange for the storage of the firearm or ammunition by a law enforcement agency or by a storage facility with which the sheriff has contracted for the storage of transferred firearms or ammunition, pursuant to subsection (7)(a) of this section; except that this provision must not be interpreted to require any law enforcement agency to provide storage of firearms or ammunition for any person; or

(c) Sell or otherwise transfer the firearm or ammunition to a private party who may legally possess the firearm or ammunition; except that a respondent who sells or transfers a firearm pursuant to this subsection (4)(c) shall satisfy all of the provisions of section 18-12-112 concerning private firearms transfers, including but not limited to the performance of a criminal background check of the transferee.

(5) **Compliance hearing and affidavit.** (a) The court shall conduct a compliance hearing not less than eight but not more than twelve business days after the order is issued to ensure the respondent has complied with subsection (5)(b) of this section. The court may vacate the hearing if the court determines the respondent has completed the affidavit described in subsection (5)(b) of this section. Failure to appear at a hearing described in this subsection (5)(a) constitutes contempt of court.

(b) The respondent shall complete an affidavit, which must be filed in the court record within seven business days after the order is issued, stating the number of firearms in the respondent's immediate possession or control or subject to the respondent's immediate possession or control, the make and model of each firearm, any reason the respondent is still in immediate possession or control of such firearm, and the location of each firearm. If the respondent does not possess a firearm at the time the order is issued pursuant to subsection (1) of this section, the respondent shall indicate such nonpossession in the affidavit.

(c) If the respondent possessed a firearm at the time of the qualifying incident giving rise to the duty to relinquish the firearm pursuant to this section but transferred or sold the firearm to a private party prior to the court's issuance of the order, the respondent shall disclose the sale or transfer of the firearm to the private party in the affidavit described in subsection (5)(b) of this section. The respondent, within seven business days after the order is issued, shall acquire a written receipt and signed declaration that complies with subsection (8)(a)(i) of this section, and the respondent shall file the signed declaration at the same time the respondent files the affidavit pursuant to subsection (5)(b) of this section.

(d) The state court administrator shall develop the affidavit described in subsection (5)(b) of this section and all other forms necessary to implement this section no later than January 1, 2022. State courts may use the forms developed by the state court administrator pursuant to this subsection (5)(d) or another form of the court's choosing, so long as the forms comply with the requirements of this subsection (5).

(e) Upon the sworn statement or testimony of the petitioner or of any law enforcement officer alleging there is probable cause to believe the respondent has failed to comply with the provisions of this section, the court shall determine whether probable cause exists to believe that the respondent has failed to relinquish all firearms or a concealed carry permit in the respondent's custody, control, or possession. If probable cause exists, the court shall issue a search warrant that states with particularity the places to be searched and the items to be taken into custody.

(6) **Relinquishment to a federally licensed firearms dealer.** A federally licensed firearms dealer who takes possession of a firearm or ammunition pursuant to this section shall issue a written receipt and signed declaration to the respondent at the time of relinquishment. The declaration must memorialize the sale or transfer of the firearm. The federally licensed firearms dealer shall not return the firearm or ammunition to the respondent unless the dealer:

- (a) Contacts the Colorado bureau of investigation, referred to in this section as the "bureau", to request that a criminal background check of the respondent be performed; and
- (b) Obtains approval of the transfer from the bureau after the performance of the criminal background check.

(7) **Storage by a law enforcement agency or storage facility.** (a) A local law enforcement agency may elect to store firearms or ammunition for a respondent pursuant to this section. The law enforcement agency may enter into an agreement with any other law enforcement agency or storage facility for the storage of transferred firearms or ammunition. If a law enforcement agency elects to store firearms or ammunition for a respondent:

- (I) The law enforcement agency may charge a fee for the storage, the amount of which must not exceed the direct and indirect costs incurred by the law enforcement agency in providing the storage;
- (II) The law enforcement agency shall establish policies for disposal of abandoned or stolen firearms or ammunition; and

(III) The law enforcement agency shall issue a written receipt and signed declaration to the respondent at the time of relinquishment. The declaration must memorialize the transfer of the firearm.

(b) If a local law enforcement agency elects to store firearms or ammunition for a respondent pursuant to this subsection (7), the law enforcement agency shall not return the firearm or ammunition to the respondent unless the law enforcement agency:

(I) Contacts the bureau to request that a criminal background check of the respondent be performed; and

(II) Obtains approval of the transfer from the bureau after the performance of the criminal background check.

(c)(I) A law enforcement agency that elects to store a firearm or ammunition for a respondent pursuant to this section may elect to cease storing the firearm or ammunition. A law enforcement agency that elects to cease storing a firearm or ammunition for a respondent shall notify the respondent of the decision and request that the respondent immediately make arrangements for the transfer of the possession of the firearm or ammunition to the respondent or, if the respondent is prohibited from possessing a firearm, to another person who is legally permitted to possess a firearm.

(II) If a law enforcement agency elects to cease storing a firearm or ammunition for a respondent and notifies the respondent as described in subsection (7)(c)(I) of this section, the law enforcement agency may dispose of the firearm or ammunition if the respondent fails to make arrangements for the transfer of the firearm or ammunition and complete the transfer within ninety days after receiving the notification.

(d) A law enforcement agency that elects to store a firearm or ammunition shall obtain a search warrant to examine or test the firearm or ammunition or facilitate a criminal investigation if a law enforcement agency has probable cause to believe the firearm or ammunition has been used in the commission of a crime, is stolen, or is contraband. This subsection (7)(d) does not preclude a law enforcement agency from conducting a routine inspection of the firearm or ammunition prior to accepting the firearm for storage.

**(8) Relinquishment to a private party.** (a) If a respondent sells or otherwise transfers a firearm or ammunition to a private party who may legally possess the firearm or ammunition, as described in subsection (4)(c) of this section, the respondent shall acquire:

(I) From the federally licensed firearms dealer, a written receipt and signed declaration memorializing the transfer, which receipt must be dated and signed by the respondent, the transferee, and the federally licensed firearms dealer; and

(II) From the federally licensed firearms dealer who requests from the bureau a criminal background check of the transferee, as described in section 18-12-112, a written statement of the results of the criminal background check.

(b) The respondent shall not transfer the firearm to a private party living in the same residence as the defendant at the time of the transfer.

(c) Notwithstanding section 18-12-112, if a private party elects to store a firearm for a respondent pursuant to this section, the private party shall not return the firearm to the respondent unless the private party acquires from the federally licensed firearms dealer who requests from the bureau a background check of the respondent, a written statement of the results of the background check authorizing the return of the firearm to the respondent.

(9) **Requirement to file signed declaration.** (a) The respondent shall file a copy of the signed declaration issued pursuant to subsection (6), (7)(a)(III), or (8)(a)(I) of this section, and, if applicable, the written statement of the results of a criminal background check performed on the respondent, as described in subsection (8)(a)(II) of this section, with the court as proof of the relinquishment at the same time the respondent files the signed affidavit pursuant to subsection (5)(b) of this section. The signed declaration and written statement filed pursuant to this subsection (9) are only available for inspection by the court and the parties to the proceeding. If a respondent fails to timely transfer or sell a firearm or file the signed declaration or written statement as described in this subsection (9):

(I) The failure constitutes a violation of the protection order pursuant to section 18-6-803.5(1)(c); and

(II) The court shall issue a warrant for the respondent's arrest.

(b) In any subsequent prosecution for a violation of a protection order described in this subsection (9), the court shall take judicial notice of the respondent's failure to transfer or sell a firearm, or file the signed declaration or written statement, which constitutes prima facie evidence of a violation of the protection order pursuant to section 18-6-803.5(1)(c), and testimony of the clerk of the court or the clerk of the court's deputy is not required.

(10) Nothing in this section limits a respondent's right to petition the court for dismissal of a protection order.

(11) A respondent subject to a civil protection order issued pursuant to section 13-14-104.5(1)(a) who possesses or attempts to purchase or receive a firearm or ammunition while the protection order is in effect violates the order pursuant to section 18-6-803.5(1)(c).

(12)(a) A law enforcement agency that elects in good faith to not store a firearm or ammunition for a respondent pursuant to subsection (7)(a) of this section is not criminally or civilly liable for such inaction.

(b) A law enforcement agency that returns possession of a firearm or ammunition to a respondent in good faith as permitted by subsection (7) of this section is not criminally or civilly liable for such action.

(13) **Immunity.** A federally licensed firearms dealer, law enforcement agency, storage facility, or private party that elects to store a firearm pursuant to this section is not civilly liable for any resulting damages to the firearm, as long as such damage did not result from the willful and wrongful act or gross negligence of the federally licensed firearms dealer, law enforcement agency, storage facility, or private party.

# CONNECTICUT

## Summary: Relinquishment required upon any disqualifying status; particular relinquishment requirements for DVPOs

Highlighted Provisions:

### **Conn. Gen. Stat. § 29-36k**

(a) Except as provided in subsection (b) of this section, not later than two business days after the occurrence of any event that makes a person ineligible to possess a pistol or revolver or other firearm or ammunition, such person shall (1) transfer in accordance with section 29-33 all pistols and revolvers which such person then possesses to any person eligible to possess a pistol or revolver and transfer in accordance with any applicable state and federal laws all other firearms to any person eligible to possess such other firearms by obtaining an authorization number for the sale or transfer of the firearm from the Commissioner of Emergency Services and Public Protection, and submit a sale or transfer of firearms form to said commissioner within two business days, or (2) deliver or surrender such pistols and revolvers and other firearms and ammunition to the Commissioner of Emergency Services and Public Protection, provided a local police department may accept such pistols, revolvers, other firearms and ammunition on behalf of said commissioner, or (3) transfer such ammunition to any person eligible to possess such ammunition. The commissioner and a local police department shall exercise due care in the receipt and holding of such pistols and revolvers and other firearms or ammunition.

(b) Immediately, but in no event more than twenty-four hours after notice has been provided to a person subject to a restraining or protective order or a foreign order of protection, such person shall (1) transfer any pistol, revolver or other firearm or ammunition which such person then possesses to a federally licensed firearms dealer pursuant to the sale of the pistol, revolver or other firearm or ammunition to the federally licensed firearms dealer, or (2) deliver or surrender such pistols and revolvers and other firearms and ammunition to the Commissioner of Emergency Services and Public Protection, provided a local police department may accept such pistols, revolvers, other firearms and ammunition on behalf of said commissioner. For the purposes of this section, a “person subject to a restraining or protective order or a foreign order of protection” means a person who knows that such person is subject to (A) a restraining or protective order of a court of this state that has been issued against such person, after notice has been provided to such person, in a case involving the use, attempted use or threatened use of physical force against another person, or (B) a foreign order of protection, as defined in section 46b-15a, that has been issued against such person in a case involving the use, attempted use or threatened use of physical force against another person.

(c)

(1) A person subject to a restraining order or protective order or a foreign order of protection or an order of protection issued under section 46b-16a, who has delivered or surrendered any pistol, revolver, or other firearm or ammunition to the Commissioner of Emergency Services and Public Protection or a local police department, may request the return of such pistol, revolver, or other firearm or ammunition, upon (A) the expiration of the restraining order or protective order or a foreign order of protection or an order of protection issued under section 46b-16a, or (B) the issuance of a subsequent court order that rescinds the restraining order or protective order or a foreign order of protection or an order of protection issued under section 46b-16a.

(2) When making such request, the person described in subdivision (1) of this subsection shall provide notification of (A) the expiration of the restraining order or protective order or a foreign order of protection or an order of protection issued under section 46b-16a, or (B) the issuance of a subsequent court order that rescinds the restraining order or protective order or a foreign order of protection or an order of protection issued under section 46b-16a, to the Commissioner of Emergency Services and Public Protection or a local police department.

(3) Not later than five business days after the date on which a person has made a request pursuant to subdivision (1) of this subsection, the commissioner or a local police department shall review the request and make available for retrieval any pistol, revolver, or other firearm or ammunition to such person provided the commissioner or a local police department confirms: (A) (i) The expiration of the restraining order or protective order or a foreign order of protection or an order of protection issued under section 46b-16a, or (ii) the issuance of a subsequent court order that rescinds the restraining order or protective order or a foreign order of protection or an order of protection issued under section 46b-16a, (B) that such person is not otherwise disqualified from possessing such pistol, revolver, or other firearm or ammunition, and (C) that such person was legally entitled to possess such pistol, revolver, or other firearm or ammunition at the time of delivery or surrender to the commissioner or a local police department.

(d) Such person, or such person's legal representative, may, at any time up to one year after such delivery or surrender, transfer such pistols and revolvers in accordance with the provisions of section 29-33 to any person eligible to possess a pistol or revolver and transfer such other firearms and ammunition, in accordance with any applicable state and federal laws, to any person eligible to possess such other firearms and ammunition, provided any person subject to a restraining or protective order or a foreign order of protection, or such person's legal representative, may only transfer such pistol, revolver or other firearm or ammunition to a federally licensed firearms dealer pursuant to the sale of the pistol, revolver or other firearm or ammunition to the federally licensed firearms dealer. Upon notification in writing by the transferee and such person, the Commissioner of Emergency Services and Public Protection or a local police department as the case may be, shall, within ten days, deliver such pistols and revolvers and other firearms and ammunition to the transferee. If, at the end of such year, such pistols and revolvers and other firearms and ammunition have not been so transferred, the commissioner or a local police department as the case may be, shall cause them to be destroyed.



# DELAWARE

## Summary: Relinquishment order authorized for qualifying DVPOs

Highlighted Provisions:

### **Del. Code Ann. tit. 10, § 1045(a)(8), (11), (g)-(k)**

(a) After consideration of a petition for a protective order, the Court may grant relief in the form of any of the following:

...

(8) Order the respondent to temporarily relinquish to a police officer or a federally-licensed firearms dealer located in Delaware the respondent's firearms and to refrain from purchasing or receiving additional firearms for the duration of the order. The Court shall inform the respondent that the respondent is prohibited from receiving, transporting, or possessing firearms for so long as the protective order is in effect.

...

(11) Issue an order directing any law-enforcement agency to forthwith search for and seize firearms of the respondent upon a showing by the petitioner that the respondent has possession of a firearm, and

- a. Petitioner can describe, with sufficient particularity, both the type and location of the firearm or firearms; and
- b. Respondent has used or threatened to use a firearm against the petitioner, or the petitioner expresses a fear that the respondent may use a firearm against them.

(g) A protective order requiring a person to relinquish firearms in accordance with paragraph (a) (8) of this section shall:

(1) State on its face that firearms shall be relinquished immediately to a police officer if requested by the police officer upon personal service of the protective order. If no request is made by a police officer, the relinquishment shall occur within 24 hours of personal service of the order at any staffed police station or a federally-licensed firearms dealer located in Delaware, unless the person is incarcerated at the time personal service is received, in which case the 24-hour relinquishment period shall commence at the time of release from incarceration.

(2) State on its face that the respondent is prohibited from purchasing, possessing, or controlling firearms, any other deadly weapons, or ammunition for a firearm under Delaware law.

(3) Require the respondent to file, within 48 hours of personal service or, if the Court will not be open within 48 hours from the time of personal service, within the first 3 hours the Court is thereafter open, 1 of the following documents:

a. A certification, under penalty of prosecution for false written statement under § 1233 of Title 11, that the respondent did not own, possess, or control any firearms at the time of the order and currently does not own, possess, or control any firearms.

b. A copy of a proof of transfer showing, for each firearm owned, possessed, or controlled by the respondent at the time of the order, that the firearm was relinquished to a police officer or a federally-licensed firearms dealer located in Delaware.

c. A certification, under penalty of prosecution for false written statement under § 1233 of Title 11, for each firearm owned, possessed, or controlled by the respondent at the time of the order, that the respondent is unable to obtain access to the firearm, specifying the location of the firearm and the reason why the respondent is unable to obtain access.

(h) The Court shall provide to the petitioner a copy of the documents the respondent files with the Court pursuant to paragraph (g)(3) of this section within 48 hours of filing or, if the Court will not be open within 48 hours of the filing, within the first 3 hours the Court is thereafter open.

(i) A police officer or a federally-licensed firearms dealer located in Delaware taking possession of firearms relinquished by a respondent pursuant to a protective order under subsection (a) of this section shall issue a proof of transfer to the respondent and to the Court issuing the order of protection. The proof of transfer shall list the name of the respondent; date of the transfer; and make, model, and serial number of each firearm relinquished. For purposes of this section, the term “police officer” shall be defined as in § 1911 of Title 11. The law-enforcement agency or the federally-licensed firearms dealer located in Delaware shall dispose of the firearm or return the firearm to the respondent only subsequent to the expiration or termination of the protective order in accordance with § 2311 of Title 11.

(j) The forms for protective orders shall allow the petitioner to describe, under penalty of prosecution for false written statement under § 1233 of Title 11, the number, types, and locations of any firearms presently known by the petitioner to be owned, possessed, or controlled by the respondent.

(k) No records, data, information, or reports containing the name, address, other identifying data of either the respondent, petitioner, or recipient of the relinquished firearms or which contain the make, model, caliber, serial number, or other identifying data of any firearm which are required, authorized, or maintained pursuant to this section, shall be subject to disclosure or release pursuant to the Freedom of Information Act, Chapter 100 of Title 29.

# DISTRICT OF COLUMBIA

Summary: Relinquishment order required in qualifying temporary DVPOs, authorized in qualifying permanent DVPOs

Highlighted Provisions:

**D.C. Code Ann. § 16-1004(h)(2)**

(h) A temporary protection order issued under this section:

...

(2) Shall require that the respondent relinquish possession of any firearms or ammunition and prohibit the respondent from having possession or control of, purchasing, or receiving any firearm or ammunition while the protection order is in effect.

**D.C. Code Ann. § 16-1005(c)(10)**

(c) If, after a hearing, the judicial officer finds that there is good cause to believe the respondent has committed or threatened to commit a criminal offense against the petitioner or an animal the petitioner owns, possesses, or controls, or with the consent of both parties, the judicial officer may issue a civil protection order that:

...

(10) Directs the respondent to relinquish possession of any firearms or ammunition and prohibits the respondent from having possession or control of, purchasing, or receiving any firearm or ammunition while the protection order is in effect.

# HAWAII

## Summary: Relinquishment required upon any disqualifying status

### Highlighted Provisions:

#### **134-7.3 Seizure of firearms upon disqualification.**

(a) If any applicant is denied a permit, the chiefs of police of the respective counties shall send, by certified mail, a notice setting forth the reasons for the denial and may require that the applicant voluntarily surrender all firearms and ammunition to the chief of police where the applicant resides or dispose of all firearms and ammunition. If an applicant fails to voluntarily surrender or dispose of all firearms and ammunition within thirty days from the date notice was mailed, the chief of police may seize all firearms and ammunition.

(b) Any person disqualified from ownership, possession, or control of firearms and ammunition under section 134-7 or part IV, within forty-eight hours of disqualification, shall voluntarily surrender all firearms and ammunition to the chief of police where the person resides or dispose of all firearms and ammunition. If any person fails to voluntarily surrender or dispose of all firearms and ammunition within forty-eight hours from the date of disqualification, the chief of police may seize all firearms and ammunition.

(d) For the purposes of this section, “dispose” means selling the firearms to a gun dealer licensed under section 134-31, transferring ownership of the firearms to any person who meets the requirements of section 134-2, or surrendering all firearms to the chief of police where the person resides for storage or disposal; provided that, for a person subject to section 134-7(f) or part IV, “dispose” shall not include transferring ownership of the firearms to any person who meets the requirements of section 134-2.

(e) The chief of police of the respective counties shall adopt procedures to implement and administer the provisions of this section by December 31, 2001.

# ILLINOIS

## Summary: Relinquishment of firearm owner's identification card and firearms required in qualifying criminal and civil DVPOs and authorized for convictions for domestic violence

Highlighted Provisions:

### Civil DVPOs

#### **750 Ill. Comp. Stat. Ann. 60/214(b)(14.5): Civil**

(b) Remedies and standards. The remedies to be included in an order of protection shall be determined in accordance with this Section and one of the following Sections, as appropriate: Section 217 on emergency orders, Section 218 on interim orders, and Section 219 on plenary orders. The remedies listed in this subsection shall be in addition to other civil or criminal remedies available to petitioner.

...

(14.5) Prohibition of firearm possession.

(a) Prohibit a respondent against whom an order of protection was issued from possessing any firearms during the duration of the order if the order:

- (1) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;
- (2) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and
- (3)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or (ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury.

Any Firearm Owner's Identification Card in the possession of the respondent, except as provided in subsection (b), shall be ordered by the court to be turned over to the local law enforcement agency. The local law enforcement agency shall immediately mail the card to the Illinois State Police Firearm Owner's Identification Card Office for safekeeping. The court shall issue a warrant for seizure of any firearm in the possession of the respondent, to be kept by the local law enforcement agency for safekeeping, except as provided in subsection (b). The period of

safekeeping shall be for the duration of the order of protection. The firearm or firearms and Firearm Owner's Identification Card, if unexpired, shall at the respondent's request, be returned to the respondent at the end of the order of protection. It is the respondent's responsibility to notify the Illinois State Police Firearm Owner's Identification Card Office.

(b) If the respondent is a peace officer as defined in Section 2-13 of the Criminal Code of 2012,<sup>7</sup> the court shall order that any firearms used by the respondent in the performance of his or her duties as a peace officer be surrendered to the chief law enforcement executive of the agency in which the respondent is employed, who shall retain the firearms for safekeeping for the duration of the order of protection.

(c) Upon expiration of the period of safekeeping, if the firearms or Firearm Owner's Identification Card cannot be returned to respondent because respondent cannot be located, fails to respond to requests to retrieve the firearms, or is not lawfully eligible to possess a firearm, upon petition from the local law enforcement agency, the court may order the local law enforcement agency to destroy the firearms, use the firearms for training purposes, or for any other application as deemed appropriate by the local law enforcement agency; or that the firearms be turned over to a third party who is lawfully eligible to possess firearms, and who does not reside with respondent.

### **Criminal protection orders in domestic violence cases**

#### **725 Ill. Comp. Stat. Ann. 5/112A-14(b)(14.5): Criminal**

(b) The court may order any of the remedies listed in this subsection (b). The remedies listed in this subsection (b) shall be in addition to other civil or criminal remedies available to petitioner.

...

(14.5) Prohibition of firearm possession.

(A) A person who is subject to an existing domestic violence order of protection issued under this Code may not lawfully possess weapons or a Firearm Owner's Identification Card under Section 8.2 of the Firearm Owners Identification Card Act.<sup>4</sup>

(B) Any firearms in the possession of the respondent, except as provided in subparagraph (C) of this paragraph (14.5), shall be ordered by the court to be turned over to a person with a valid Firearm Owner's Identification Card for safekeeping. The court shall issue an order that the respondent comply with Section 9.5 of the Firearm Owners Identification Card Act.

(C) If the respondent is a peace officer as defined in Section 2-13 of the Criminal Code of 2012, the court shall order that any firearms used by the respondent in the performance of his or her duties as a peace officer be surrendered to the chief law enforcement executive of the agency in which the respondent is employed, who shall retain the firearms for safekeeping for the duration of the domestic violence order of protection.

(D) Upon expiration of the period of safekeeping, if the firearms or Firearm Owner's Identification Card cannot be returned to respondent because respondent cannot be located, fails to respond

to requests to retrieve the firearms, or is not lawfully eligible to possess a firearm, upon petition from the local law enforcement agency, the court may order the local law enforcement agency to destroy the firearms, use the firearms for training purposes, or for any other application as deemed appropriate by the local law enforcement agency; or that the firearms be turned over to a third party who is lawfully eligible to possess firearms, and who does not reside with respondent.”

## **Criminal convictions**

### **725 Ill. Comp. Stat. Ann. 5/112A-14(b)(14.5): Criminal**

(b) The court may order any of the remedies listed in this subsection (b). The remedies listed in this subsection (b) shall be in addition to other civil or criminal remedies available to petitioner.

...

(14.5) Prohibition of firearm possession.

(A) A person who is subject to an existing domestic violence order of protection issued under this Code may not lawfully possess weapons or a Firearm Owner’s Identification Card under Section 8.2 of the Firearm Owners Identification Card Act.<sup>4</sup>

(B) Any firearms in the possession of the respondent, except as provided in subparagraph (C) of this paragraph (14.5), shall be ordered by the court to be turned over to a person with a valid Firearm Owner’s Identification Card for safekeeping. The court shall issue an order that the respondent comply with Section 9.5 of the Firearm Owners Identification Card Act.

(C) If the respondent is a peace officer as defined in Section 2-13 of the Criminal Code of 2012, the court shall order that any firearms used by the respondent in the performance of his or her duties as a peace officer be surrendered to the chief law enforcement executive of the agency in which the respondent is employed, who shall retain the firearms for safekeeping for the duration of the domestic violence order of protection.

(D) Upon expiration of the period of safekeeping, if the firearms or Firearm Owner’s Identification Card cannot be returned to respondent because respondent cannot be located, fails to respond to requests to retrieve the firearms, or is not lawfully eligible to possess a firearm, upon petition from the local law enforcement agency, the court may order the local law enforcement agency to destroy the firearms, use the firearms for training purposes, or for any other application as deemed appropriate by the local law enforcement agency; or that the firearms be turned over to a third party who is lawfully eligible to possess firearms, and who does not reside with respondent.

# INDIANA

## Summary: Relinquishment order authorized in qualifying DVPOs

Highlighted Provisions:

### **Ind. Code Ann. § 34-26-5-9(d)(4), (h)**

(d) A court may grant the following relief after notice and a hearing, whether or not a respondent appears, in an order for protection or in a modification of an order for protection:

...

(4) Prohibit a respondent from using or possessing a firearm, ammunition, or a deadly weapon specified by the court, and direct the respondent to surrender to a specified law enforcement agency the firearm, ammunition, or deadly weapon for the duration of the order for protection unless another date is ordered by the court.

...

(h) A finding that domestic or family violence or harassment has occurred sufficient to justify the issuance of an order under this section means that a respondent represents a credible threat to the safety of a petitioner or a member of a petitioner's household. Upon a showing of domestic or family violence or harassment by a preponderance of the evidence, the court shall grant relief necessary to bring about a cessation of the violence or the threat of violence. The relief may include an order directing a respondent to surrender to a law enforcement officer or agency all firearms, ammunition, and deadly weapons:

(1) in the control, ownership, or possession of a respondent; or

(2) in the control or possession of another person on behalf of a respondent; for the duration of the order for protection unless another date is ordered by the court.



## Summary: Relinquishment order required in qualifying DVPOs and upon qualifying convictions for domestic violence

Highlighted Provisions:

### **Iowa Code § 724.26**

1. A person who is convicted of a felony in a state or federal court, or who is adjudicated delinquent on the basis of conduct that would constitute a felony if committed by an adult, and who knowingly has under the person's dominion and control or possession, receives, or transports or causes to be transported a firearm or offensive weapon is guilty of a class "D" felony.
2. a. Except as provided in paragraph "b", a person who is subject to a protective order under 18 U.S.C. §922(g)(8) or who has been convicted of a misdemeanor crime of domestic violence under 18 U.S.C. §922(g)(9) and who knowingly possesses, ships, transports, or receives a firearm, offensive weapon, or ammunition is guilty of a class "D" felony. b. This subsection shall not apply to the possession, shipment, transportation, or receipt of a firearm, offensive weapon, or ammunition issued by a state department or agency or political subdivision for use in the performance of the official duties of the person who is the subject of a protective order under 18 U.S.C. §922(g)(8). c. For purposes of this section, "misdemeanor crime of domestic violence" means an assault under section 708.1, subsection 2, paragraph "a" or "c", committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.
3. Upon the issuance of a protective order or entry of a judgment of conviction described in subsection 2, the court shall inform the person who is the subject of such order or conviction that the person shall not possess, ship, transport, or receive a firearm, offensive weapon, or ammunition while such order is in effect or until such conviction is vacated or until the person's rights have been restored in accordance with section 724.27.
4. Except as provided in section 809A.17, subsection 5, paragraph "b", a court that issues an order or that enters a judgment of conviction described in subsection 2 and that finds the subject of the order or conviction to be in possession of any firearm, offensive weapon, or ammunition shall order that such firearm, offensive weapon, or ammunition be sold or transferred by a date certain to the custody of a qualified person in this state, as determined by the court. The qualified person must be able to lawfully possess such firearm, offensive

weapon, or ammunition in this state. If the court is unable to identify a qualified person to receive such firearm, offensive weapon, or ammunition, the court shall order that the firearm, offensive weapon, or ammunition be transferred by a date certain to the county sheriff or a local law enforcement agency designated by the court for safekeeping until a qualified person is identified to receive the firearm, offensive weapon, or ammunition, until such order is no longer in effect, until such conviction is vacated, or until the person's rights have been restored in accordance with section 724.27. If the firearm, offensive weapon, or ammunition is to be transferred to the sheriff's office or a local law enforcement agency, the court shall assess the person the reasonable cost of storing the firearm, offensive weapon, or ammunition, payable to the county sheriff or the local law enforcement agency.

5. Upon entry of an order described in subsection 2, the court shall enter the name, address, date of birth, driver's license number, or other identifying information of the person subject to the order into the Iowa criminal justice information system, the reason for the order, and the date by which the person is required to comply with any relinquishment order issued under subsection 4. At the time such order is no longer in effect, such information relating to the prohibition in subsection 3 shall be deleted from the Iowa criminal justice information system.

6. If a firearm, offensive weapon, or ammunition has been transferred to a qualified person pursuant to subsection 4 and the protective order described in subsection 2 is no longer in effect, the firearm, offensive weapon, or ammunition shall be returned to the person who was subject to the protective order within five days of that person's request to have the firearm, offensive weapon, or ammunition returned.

# LOUISIANA

## Summary: Relinquishment order required for qualifying convictions for domestic violence and qualifying DVPOs

Highlighted Provisions:

### **La. Code Crim. Proc. Ann. art. 1002**

A.

(1) When a person has any of the following, the judge shall order the transfer of all firearms and the suspension of a concealed handgun permit of the person:

- (a) A conviction of domestic abuse battery (R.S. 14:35.3).
- (b) A second or subsequent conviction of battery of a dating partner (R.S. 14:34.9).
- (c) A conviction of battery of a dating partner that involves strangulation (R.S. 14:34.9(K)).
- (d) A conviction of battery of a dating partner when the offense involves burning (R.S. 14:34.9(L)).
- (e) A conviction of possession of a firearm or carrying a concealed weapon by a person convicted of domestic abuse battery and certain offenses of battery of a dating partner (R.S. 14:95.10).
- (f) A conviction of domestic abuse aggravated assault (R.S. 14:37.7).
- (g) A conviction of aggravated assault upon a dating partner (R.S. 14:34.9.1).
- (h) A conviction of any felony crime of violence enumerated or defined in R.S. 14:2(B), for which a person would be prohibited from possessing a firearm pursuant to R.S. 14:95.1, and which has as an element of the crime that the victim was a family member, household member, or dating partner.
- (i) A conviction of any felony crime of violence enumerated or defined in R.S. 14:2(B), for which a person would be prohibited from possessing a firearm pursuant to R.S. 14:95.1, and in which the victim of the crime was determined to be a family member, household member, or dating partner.

(2) Upon issuance of an injunction or order under any of the following circumstances, the judge shall order the transfer of all firearms and the suspension of a concealed handgun permit of the person who is subject to the injunction or order:

- (a) The issuance of a permanent injunction or a protective order pursuant to a court-approved consent agreement or pursuant to the provisions of R.S. 9:361 et seq., R.S. 9:372,

R.S. 46:2136, 2151, or 2173, Children’s Code Article 1570, Code of Civil Procedure Article 3607.1, or Articles 30, 320, or 871.1 of this Code.

(b) The issuance of a Uniform Abuse Prevention Order that includes terms that prohibit the person from possessing a firearm or carrying a concealed weapon.

B.

(1) The order to transfer firearms and suspend a concealed handgun permit shall be issued by the court at the time of conviction for any of the offenses listed in Subparagraph (A)(1) of this Article or at the time the court issues an injunction or order under any of the circumstances listed in Subparagraph (A)(2) of this Article.

(2) In the order to transfer firearms and suspend a concealed handgun permit the court shall inform the person subject to the order that he is prohibited from possessing a firearm and carrying a concealed weapon pursuant to the provisions of 18 U.S.C. 922(g)(8) and Louisiana law.

C. At the same time an order to prohibit a person from possessing a firearm or carrying a concealed weapon is issued, the court shall also cause all of the following to occur:

(1) Require the person to state in open court or complete an affidavit stating the number of firearms in his possession and the location of all firearms in his possession.

(2) Require the person to complete a firearm information form that states the number of firearms in his possession, the type of each firearm, and the location of each firearm.

(3) Transmit a copy of the order to transfer firearms and a copy of the firearm information form to the sheriff of the parish or the sheriff of the parish of the person’s residence.

D.

(1) The court shall, on the record and in open court, order the person to transfer all firearms in his possession to the sheriff no later than forty-eight hours, exclusive of legal holidays, after the order is issued and a copy of the order and firearm information form required by Paragraph C of this Article is sent to the sheriff. If the person is incarcerated at the time the order is issued, he shall transfer his firearms no later than forty-eight hours after his release from incarceration, exclusive of legal holidays. At the time of transfer, the sheriff and the person shall complete a proof of transfer form. The proof of transfer form shall contain the quantity of firearms transferred. The sheriff shall retain a copy of the form and provide the person with a copy. The proof of transfer form shall attest that the person is not currently in possession of firearms in accordance with the provisions of this Title and is currently compliant with state and federal law, but shall not include the date on which the transfer occurred.

(2) Within ten days of transferring his firearms, exclusive of legal holidays, the person shall file the proof of transfer form with the clerk of court of the parish in which the order was issued. The proof of transfer form shall be maintained by the clerk of court under seal.

E.

(1) If the person subject to the order to transfer firearms and suspend a concealed handgun permit issued pursuant to Paragraph A of this Article does not possess firearms, at the time the order is issued, the person shall complete a declaration of nonpossession form which shall be filed in the court record and a copy shall be provided to the sheriff.

(2) Within five days of the issuance of the order pursuant to Paragraph A of this Article, exclusive of legal holidays, the person shall file the declaration of nonpossession with the clerk of court of the parish in which the order was issued.

F. Notwithstanding the provisions of Paragraph E of this Article or any other provision of law to the contrary, if the person subject to the order to transfer firearms and suspend a concealed handgun permit issued pursuant to Paragraph A of this Article possessed firearms at the time of the qualifying incident giving rise to the duty to transfer his firearms pursuant to this Title, but transferred or sold his firearms to a third party prior to the court's issuance of the order, that third-party transfer shall be declared in open court. The person subject to the order to transfer firearms and suspend a concealed handgun permit shall within ten days after issuance of the order, exclusive of legal holidays, execute along with the third party and a witness a proof of transfer form that complies with the provisions of Paragraph D of this Article and with Article 1003(A)(1)(a). The proof of transfer form need not be signed by the sheriff and shall be filed, within ten days after the date on which the proof of transfer form is executed, by the person subject to the order with the clerk of court of the parish in which the order was issued. The proof of transfer form shall be maintained by the clerk of court under seal.

G. The failure to provide the information required by this Title, the failure to timely transfer firearms in accordance with the provisions of this Title, or both, may be punished as contempt of court. Information required to be provided in order to comply with the provisions of this Title cannot be used as evidence against that person in a future criminal proceeding, except as provided by the laws on perjury or false swearing.

H. On motion of the district attorney or of the person transferring his firearms, and for good cause shown, the court shall conduct a contradictory hearing with the district attorney to ensure that the person has complied with the provisions of this Title.

I. For the purposes of this Title, a person shall be deemed to be in possession of a firearm if that firearm is subject to his dominion and control.

# MARYLAND

## Summary: Relinquishment order required for qualifying DVPOs and qualifying convictions for domestic violence

Highlighted Provisions:

### **DVPOs**

#### **Md. Code Ann., Fam. Law § 4-506**

##### **Surrender of firearms by respondent**

(f) The final protective order shall order the respondent to surrender to law enforcement authorities any firearm in the respondent's possession, and to refrain from possession of any firearm, for the duration of the protective order.

#### **Md. Code Ann., Fam. Law § 4-506.1**

##### **Duties of law enforcement officer**

(a) If a respondent surrenders a firearm under § 4-505 or § 4-506 of this subtitle, a law enforcement officer shall:

- (1) provide to the respondent information on the process for retaking possession of the firearm; and
- (2) transport and store the firearm in a protective case, if one is available, and in a manner intended to prevent damage to the firearm during the time the protective order is in effect.

##### **Expiration of temporary protective order**

(b)

(1) The respondent may retake possession of the firearm at the expiration of a temporary protective order unless:

- (i) the respondent is ordered to surrender the firearm in a protective order issued under § 4-506 of this subtitle; or
- (ii) the respondent is not otherwise legally entitled to own or possess the firearm.

(2) The respondent may retake possession of the firearm at the expiration of a final protective order unless:

- (i) the protective order is extended under § 4-507(a)(2) of this subtitle; or
- (ii) the respondent is not otherwise legally entitled to own or possess the firearm.

## **Transport of firearm**

(c) Notwithstanding any other law, a respondent may transport a firearm if the respondent is carrying a protective order requiring the surrender of the firearm and:

- (1) the firearm is unloaded;
- (2) the respondent has notified the law enforcement unit, barracks, or station that the firearm is being transported in accordance with the protective order; and
- (3) the respondent transports the firearm directly to the law enforcement unit, barracks, or station.

## **Criminal convictions**

### **Md. Code Ann., Crim. Proc. § 6-234(c)-(d), (e)(3)-(i)**

#### **Upon conviction of a disqualifying crime, notice of prohibition of possession of firearms, order to transfer**

(c) When a defendant is convicted of or pleads guilty to a disqualifying crime that the court determines to be a domestically related crime, the court shall inform the defendant, both verbally and in a written notice to be signed by the defendant, that the defendant is:

- (1) prohibited from possessing a regulated firearm under § 5-133 of the Public Safety Article;
- (2) prohibited from possessing a rifle or shotgun under § 5-205 of the Public Safety Article; and
- (3) ordered to transfer all regulated firearms, rifles, and shotguns owned by the defendant or in the defendant's possession in accordance with this section.

#### **Order to transfer all firearms**

(d) The court shall order the defendant to transfer all regulated firearms, rifles, and shotguns owned by the defendant or in the defendant's possession in accordance with this section.

#### **Time of transfer; transfer to local law enforcement agency or federally licensed firearms dealer; contents of written proof of transfer**

(e)

...

(3) A law enforcement agency or federally licensed firearms dealer accepting a transferred firearm under this section shall issue a written proof of transfer to the person transferring the firearm.

(4)

(i) Except as provided in subparagraph (ii) of this paragraph, a written proof of transfer described in paragraph (3) of this subsection shall include:

1. the name of the person transferring the firearm;

2. the date the firearm was transferred; and
3. the serial number, make, and model of the firearm.

(ii) For a firearm manufactured before 1968, identifying marks may be substituted for the serial number required under this paragraph.

### **Issuance of search warrant for removal of firearms**

(f) On application by the State's Attorney or a law enforcement official based on probable cause to believe that the person has failed to surrender one or more regulated firearms, rifles, or shotguns, in accordance with this section, the court may authorize the execution of a search warrant for the removal of any regulated firearm, rifle, or shotgun at any location where the court has probable cause to believe a regulated firearm, rifle, or shotgun owned or possessed by the person is located.

### **Rules and procedures for storage and disposal of firearms**

(g) Law enforcement agencies may develop rules and procedures pertaining to the storage and disposal of firearms that are surrendered in accordance with this section.

(training for law enforcement)

### **Md. Code Ann., Public Safety § 3-207(i)**

#### **Training and certification curriculum for investigating compliance with court orders to surrender regulated firearms, rifles, and shotguns**

(i) The Commission, in consultation with the Maryland State's Attorneys' Association, shall develop and maintain a uniform, statewide training and certification curriculum to ensure use of best practices in investigating compliance with court orders to surrender regulated firearms, rifles, and shotguns under § 6-234 of the Criminal Procedure Article.



# MASSACHUSETTS

Summary: Relinquishment required upon conviction for qualifying crimes and relinquishment order required in qualifying temporary or emergency DVPOs

Highlighted Provisions:

## **Criminal convictions**

### **Mass. Gen. Laws ch. 140, § 129d**

Section 129D. Upon revocation, suspension or denial of an application for a firearm identification card pursuant to section 129B [including misdemeanor crimes of domestic violence] or for any firearms license if the firearm identification card is not then in force or for any machine gun license, the person whose application was so revoked, suspended or denied shall without delay deliver or surrender to the licensing authority where the person resides all firearms, rifles, shotguns and machine guns and ammunition which the person then possesses unless an appeal of the revocation or suspension is pending. The person or the person's legal representative shall have the right, at any time up to 1 year after the delivery or surrender, to transfer the firearms, rifles, shotguns and machine guns and ammunition to any licensed dealer or any other person legally permitted to purchase or take possession of the firearms, rifles, shotguns and machine guns and ammunition and, upon notification in writing by the purchaser or transferee and the former owner, the licensing authority shall within 10 days deliver the firearms, rifles, shotguns and machine guns and ammunition to the transferee or purchaser and the licensing authority shall observe due care in the receipt and holding of any such firearm, rifle, shotgun or machine gun and ammunition; provided, however, that the purchaser or transferee shall affirm in writing that the purchaser or transferee shall not in violation of section 129C transfer the firearms, rifles, shotguns or machine guns or ammunition to the former owner. The licensing authority shall at the time of delivery or surrender inform the person in writing of the authority's ability, within 1 year after delivery or surrender, to transfer the firearms, rifles, shotguns and machine guns and ammunition to any licensed dealer or other person legally permitted to purchase or take possession.

The licensing authority, after taking possession of any firearm, rifle, shotgun, machine gun or ammunition by any means, may transfer possession of such weapon for storage purposes to a federally and state licensed dealer of such weapons and ammunition who operates a bonded warehouse on the licensed premises that is equipped with a safe for the secure storage of firearms and a weapon box or similar container for the secure storage of other weapons and ammunition; provided, however, that the licensing authority shall not transfer to such dealer possession of any weapon that is or may be evidence in any current or pending criminal case

concerning a violation of any general or special law, rule or regulation governing the use, possession or ownership of such weapon. Any such dealer that takes possession of a weapon under the provisions of this section shall: (i) inspect such weapon; (ii) issue to the owner a receipt indicating the make, model, caliber, serial number and condition of each weapon so received; and (iii) store and maintain all weapons so received in accordance with such regulations, rules or guidelines as the secretary of the executive office of public safety may establish under this section. The owner shall be liable to such dealer for reasonable storage charges and may dispose of any such weapon as provided under this section by transfer to a person lawfully permitted to purchase or take possession of such weapon.

Firearms, rifles, shotguns or machine guns and ammunition not disposed of after delivery or surrender according to the provisions of this section shall be sold at public auction by the colonel of the state police to the highest bidding person legally permitted to purchase and possess said firearms, rifles, shotguns or machine guns and ammunition and the proceeds shall be remitted to the state treasurer. Any such weapon that is stored and maintained by a licensed dealer as provided under this section may be so auctioned at the direction of: (i) the licensing authority at the expiration of one year following initial surrender or delivery to such licensing authority; or (ii) the dealer then in possession, if the storage charges for such weapon have been in arrears for 90 days; provided, however, that in either case, title shall pass to the licensed dealer for the purpose of transferring ownership to the auctioneer; and provided further, that in either case, after deduction and payment for storage charges and all necessary costs associated with such surrender and transfer, all surplus proceeds, if any, shall be immediately returned to the owner of such weapon; provided, however, that no firearm, rifle, shotgun or machine gun or ammunition classified as having been used to carry out a criminal act pursuant to section 131Q shall be sold at public auction pursuant to this section.

If the licensing authority cannot reasonably ascertain a lawful owner within 180 days of acquisition by the authority, the authority may, in its discretion, trade or dispose of surplus, donated, abandoned or junk firearms, rifles, shotguns or machine guns or ammunition to properly licensed distributors or firearms dealers. The proceeds of the sale or transfer shall be remitted or credited to the municipality in which the authority presides to purchase weapons, equipment or supplies or for violence reduction or suicide prevention; provided, however, that no firearm, rifle, shotgun or machine gun or ammunition classified as having been used to carry out a criminal act pursuant to section 131Q shall be considered surplus, donated, abandoned or junk for the purposes of this section.

The secretary of the executive office of public safety may make and promulgate such rules and regulations as are necessary to carry out the provisions of this section.

### **Civil DVPOs**

#### **Mass. Gen. Laws ch. 209A, § 3B**

Section 3B. Upon issuance of a temporary or emergency order under section four or five of this chapter, the court shall, if the plaintiff demonstrates a substantial likelihood of immediate danger of abuse, order the immediate suspension and surrender of any license to carry firearms

and or firearms identification card which the defendant may hold and order the defendant to surrender all firearms, rifles, shotguns, machine guns and ammunition which he then controls, owns or possesses in accordance with the provisions of this chapter and any license to carry firearms or firearms identification cards which the defendant may hold shall be surrendered to the appropriate law enforcement officials in accordance with the provisions of this chapter and, said law enforcement official may store, transfer or otherwise dispose of any such weapon in accordance with the provisions of section 129D of chapter 140; provided however, that nothing herein shall authorize the transfer of any weapons surrendered by the defendant to anyone other than a licensed dealer. Notice of such suspension and ordered surrender shall be appended to the copy of abuse prevention order served on the defendant pursuant to section seven. Law enforcement officials, upon the service of said orders, shall immediately take possession of all firearms, rifles, shotguns, machine guns, ammunition, any license to carry firearms and any firearms identification cards in the control, ownership, or possession of said defendant. Any violation of such orders shall be punishable by a fine of not more than five thousand dollars, or by imprisonment for not more than two and one-half years in a house of correction, or by both such fine and imprisonment.

Any defendant aggrieved by an order of surrender or suspension as described in the first sentence of this section may petition the court which issued such suspension or surrender order for a review of such action and such petition shall be heard no later than ten court business days after the receipt of the notice of the petition by the court. If said license to carry firearms or firearms identification card has been suspended upon the issuance of an order issued pursuant to section four or five, said petition may be heard contemporaneously with the hearing specified in the second sentence of the second paragraph of section four. Upon the filing of an affidavit by the defendant that a firearm, rifle, shotgun, machine gun or ammunition is required in the performance of the defendant's employment, and upon a request for an expedited hearing, the court shall order said hearing within two business days of receipt of such affidavit and request but only on the issue of surrender and suspension pursuant to this section.

# MINNESOTA

## Summary: Relinquishment orders required in qualifying DVPOs and qualifying convictions for domestic violence

Highlighted Provisions:

### **Civil DVPOs**

#### **Minn. Stat. Ann. § 518B.01, subd.6(g)-(i), subd. 13(m)**

##### **Subd. 6. Relief by court.**

(g) An order granting relief shall prohibit the abusing party from possessing firearms for the length the order is in effect if the order (1) restrains the abusing party from harassing, stalking, or threatening the petitioner or restrains the abusing party from engaging in other conduct that would place the petitioner in reasonable fear of bodily injury, and (2) includes a finding that the abusing party represents a credible threat to the physical safety of the petitioner or prohibits the abusing party from using, attempting to use, or threatening to use physical force against the petitioner. The order shall inform the abusing party of that party's prohibited status. Except as provided in paragraph (i), the court shall order the abusing party to transfer any firearms that the person possesses, within three business days, to a federally licensed firearms dealer, a law enforcement agency, or a third party who may lawfully receive them. The transfer may be permanent or temporary. A temporary firearm transfer only entitles the receiving party to possess the firearm. A temporary transfer does not transfer ownership or title. An abusing party may not transfer firearms to a third party who resides with the abusing party. If an abusing party makes a temporary transfer, a federally licensed firearms dealer or law enforcement agency may charge the abusing party a reasonable fee to store the person's firearms and may establish policies for disposal of abandoned firearms, provided such policies require that the person be notified via certified mail prior to disposal of abandoned firearms. For temporary firearms transfers under this paragraph, a law enforcement agency, federally licensed firearms dealer, or third party shall exercise due care to preserve the quality and function of the transferred firearms and shall return the transferred firearms to the person upon request after the expiration of the prohibiting time period, provided the person is not otherwise prohibited from possessing firearms under state or federal law. The return of temporarily transferred firearms to an abusing party shall comply with state and federal law. If an abusing party permanently transfers the abusing party's firearms to a law enforcement agency, the agency is not required to compensate the abusing party and may charge the abusing party a reasonable processing fee. A law enforcement agency is not required to accept an abusing party's firearm under this paragraph.

(h) An abusing party who is ordered to transfer firearms under paragraph (g) must file proof of transfer as provided for in this paragraph. If the transfer is made to a third party, the third party must sign an affidavit under oath before a notary public either acknowledging that the abusing party permanently transferred the abusing party's firearms to the third party or agreeing to temporarily store the abusing party's firearms until such time as the abusing party is legally permitted to possess firearms. The affidavit shall indicate the serial number, make, and model of all firearms transferred by the abusing party to the third party. The third party shall acknowledge in the affidavit that the third party may be held criminally and civilly responsible under section 624.7144 if the abusing party gains access to a transferred firearm while the firearm is in the custody of the third party. If the transfer is to a law enforcement agency or federally licensed firearms dealer, the law enforcement agency or federally licensed firearms dealer shall provide proof of transfer to the abusing party. The proof of transfer must specify whether the firearms were permanently or temporarily transferred and include the name of the abusing party, date of transfer, and the serial number, make, and model of all transferred firearms. The abusing party shall provide the court with a signed and notarized affidavit or proof of transfer as described in this section within two business days of the firearms transfer. The court shall seal affidavits and proofs of transfer filed pursuant to this paragraph.

(i) When a court issues an order containing a firearms restriction provided for in paragraph (g), the court shall determine by a preponderance of evidence if an abusing party poses an imminent risk of causing another person substantial bodily harm. Upon a finding of imminent risk, the court shall order that the local law enforcement agency take immediate possession of all firearms in the abusing party's possession. The local law enforcement agency shall exercise due care to preserve the quality and function of the abusing party's firearms and shall return the firearms to the person upon request after the expiration of the prohibiting time period, provided the person is not otherwise prohibited from possessing firearms under state or federal law. The local law enforcement agency shall, upon written notice from the abusing party, transfer the firearms to a federally licensed firearms dealer or a third party who may lawfully receive them. Before a local law enforcement agency transfers a firearm under this paragraph, the agency shall require the third party or federally licensed firearms dealer receiving the firearm to submit an affidavit or proof of transfer that complies with the requirements for affidavits or proofs of transfer established in paragraph (h). The agency shall file all affidavits or proofs of transfer received with the court within two business days of the transfer. The court shall seal all affidavits or proofs of transfer filed pursuant to this paragraph. A federally licensed firearms dealer or third party who accepts a firearm transfer pursuant to this paragraph shall comply with paragraphs (g) and (h) as if accepting transfer from the abusing party. If the law enforcement agency does not receive written notice from the abusing party within three business days, the agency may charge a reasonable fee to store the abusing party's firearms. A law enforcement agency may establish policies for disposal of abandoned firearms, provided such policies require that the abusing party be notified via certified mail prior to disposal of abandoned firearms.

#### Subd. 14. **Violation of an order for protection.**

(m) If the court determines that a person convicted under paragraph (b) or (c) of violating an order for protection owns or possesses a firearm and used it in any way during the commission of the violation, it shall order that the firearm be summarily forfeited under section 609.5316, subdivision 3.

#### **Criminal convictions**

##### **Minn. Stat. Ann. § 609.2242**

(f) Except as otherwise provided in paragraphs (b) and (h), when a person is convicted of a violation of this section or section 609.221 [assault in the first degree], 609.222 [assault in the second degree], 609.223 [assault in the third degree], 609.224 [assault in the fifth degree], or 609.2247 [domestic assault by strangulation] and the court determines that the assault was against a family or household member, the court shall order the defendant to transfer any firearms that the person possesses, within three business days, to a federally licensed firearms dealer, a law enforcement agency, or a third party who may lawfully receive them. The transfer may be permanent or temporary, unless the court prohibits the person from possessing a firearm for the remainder of the person's life under paragraph (c). A temporary firearm transfer only entitles the receiving party to possess the firearm. A temporary transfer does not transfer ownership or title. A defendant may not transfer firearms to a third party who resides with the defendant. If a defendant makes a temporary transfer, a federally licensed firearms dealer or law enforcement agency may charge the defendant a reasonable fee to store the person's firearms and may establish policies for disposal of abandoned firearms, provided such policies require that the person be notified by certified mail prior to disposal of abandoned firearms. For temporary firearms transfers under this paragraph, a law enforcement agency, federally licensed firearms dealer, or third party shall exercise due care to preserve the quality and function of the transferred firearms and shall return the transferred firearms to the person upon request after the expiration of the prohibiting time period imposed under this subdivision, provided the person is not otherwise prohibited from possessing firearms under state or federal law. The return of temporarily transferred firearms to a person shall comply with state and federal law. If a defendant permanently transfers the defendant's firearms to a law enforcement agency, the agency is not required to compensate the defendant and may charge the defendant a reasonable processing fee. A law enforcement agency is not required to accept a person's firearm under this paragraph. The court shall order that the person surrender all permits to carry and purchase firearms to the sheriff.

(g) A defendant who is ordered to transfer firearms under paragraph (f) must file proof of transfer as provided for in this paragraph. If the transfer is made to a third party, the third party must sign an affidavit under oath before a notary public either acknowledging that the defendant permanently transferred the defendant's firearms to the third party or agreeing to temporarily store the defendant's firearms until such time as the defendant is legally permitted to possess firearms. The affidavit shall indicate the serial number, make, and model of all firearms transferred by the defendant to the third party. The third party

shall acknowledge in the affidavit that the third party may be held criminally and civilly responsible under section 624.7144 if the defendant gains access to a transferred firearm while the firearm is in the custody of the third party. If the transfer is to a law enforcement agency or federally licensed firearms dealer, the law enforcement agency or federally licensed firearms dealer shall provide proof of transfer to the defendant. The proof of transfer must specify whether the firearms were permanently or temporarily transferred and include the name of the defendant, date of transfer, and the serial number, make, and model of all transferred firearms. The defendant shall provide the court with a signed and notarized affidavit or proof of transfer as described in this section within two business days of the firearms transfer. The court shall seal affidavits and proofs of transfer filed pursuant to this paragraph.

(h) When a person is convicted of a violation of this section or section 609.221, 609.222, 609.223, 609.224, or 609.2247, and the court determines that the assault was against a family or household member, the court shall determine by a preponderance of the evidence if the person poses an imminent risk of causing another person substantial bodily harm. Upon a finding of imminent risk, the court shall order that the local law enforcement agency take immediate possession of all firearms in the person's possession. The local law enforcement agency shall exercise due care to preserve the quality and function of the defendant's firearms and shall return the firearms to the person upon request after the expiration of the prohibiting time period, provided the person is not otherwise prohibited from possessing firearms under state or federal law. The local law enforcement agency shall, upon written notice from the person, transfer the firearms to a federally licensed firearms dealer or a third party who may lawfully receive them. Before a local law enforcement agency transfers a firearm under this paragraph, the agency shall require the third party or federally licensed firearms dealer receiving the firearm to submit an affidavit or proof of transfer that complies with the requirements for affidavits or proofs of transfer established in paragraph (g). The agency shall file all affidavits or proofs of transfer received with the court within two business days of the transfer. The court shall seal all affidavits or proofs of transfer filed pursuant to this paragraph. A federally licensed firearms dealer or third party who accepts a firearm transfer pursuant to this paragraph shall comply with paragraphs (f) and (g) as if accepting transfer from the defendant. If the law enforcement agency does not receive written notice from the defendant within three business days, the agency may charge a reasonable fee to store the defendant's firearms. A law enforcement agency may establish policies for disposal of abandoned firearms, provided such policies require that the person be notified via certified mail prior to disposal of abandoned firearms.

# NEVADA

Summary: Relinquishment order authorized in qualifying DVPOs and required upon qualifying conviction for domestic violence.

Highlighted Provisions:

## Civil DVPOs

### **Nev. Rev. Stat. Ann. § 33.031**

1. A court may include in an extended order issued pursuant to NRS 33.030:
  - (a) A requirement that the adverse party surrender, sell or transfer any firearm in the adverse party's possession or under the adverse party's custody or control in the manner set forth in NRS 33.033; and
  - (b) A statement that, unless the provisions of subsection 3 apply, the adverse party is prohibited from possessing or having under the adverse party's custody or control any firearm while the order is in effect pursuant to NRS 202.360.
2. In determining whether to include the provisions set forth in subsection 1 in an extended order, the court must consider, without limitation, whether the adverse party:
  - (a) Has a documented history of domestic violence;
  - (b) Has used or threatened to use a firearm to injure or harass the applicant, a minor child or any other person; and
  - (c) Has used a firearm in the commission or attempted commission of any crime.
3. If a court includes the provisions set forth in subsection 1 in an extended order, the court may include a limited exception from the prohibition to possess or have under the adverse party's custody or control any firearm if the adverse party establishes that:
  - (a) The adverse party is employed by an employer who requires the adverse party to use or possess a firearm as an integral part of the adverse party's employment;
  - (b) The adverse party only uses or possesses the firearm in the course of such employment; and
  - (c) The employer will provide for the storage of any such firearm during any period when the adverse party is not working.
4. An adverse party who violates any provision included in an extended order pursuant to this section concerning the surrender, sale, transfer, possession, custody or control of a firearm is guilty of a category B felony and shall be punished by imprisonment in the state prison for a



minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000. The court must include in the order a statement that violation of such a provision in the order is a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000.

**Nev. Rev. Stat. Ann. § 33.033**

1. If a court orders an adverse party to surrender, sell or transfer any firearm pursuant to NRS 33.031, the adverse party shall, not later than 24 hours after service of the order:

(a) Surrender any firearm in the adverse party's possession or under the adverse party's custody or control to the appropriate local law enforcement agency designated by the court in the order;

(b) Surrender any firearm in the adverse party's possession or under the adverse party's custody or control to a person designated by the court in the order;

(c) Sell or transfer any firearm in the adverse party's possession or under the adverse party's custody or control to a licensed firearm dealer; or

(d) Submit an affidavit:

(1) Informing the court that he or she currently does not have any firearm in his or her possession or under his or her custody or control; and

(2) Acknowledging that failure to surrender, sell or transfer any firearm in his or her possession or under his or her custody or control is a violation of the extended order and state law.

2. If the court orders the adverse party to surrender any firearm to a local law enforcement agency pursuant to paragraph (a) of subsection 1, the law enforcement agency shall provide the adverse party with a receipt which includes a description of each firearm surrendered and the serial number of each firearm surrendered. The adverse party shall, not later than 72 hours or 1 business day, whichever is later, after surrendering any such firearm, provide the receipt to the court.

3. If the court orders the adverse party to surrender any firearm to a person designated by the court pursuant to paragraph (b) of subsection 1, the adverse party shall, not later than 72 hours or 1 business day, whichever is later, after the adverse party surrenders any firearm to such person, provide to the court and the appropriate local law enforcement agency the name and address of the person designated in the order and a written description of each firearm surrendered and the serial number of each firearm surrendered to such person.

4. If the adverse party sells or transfers any firearm to a licensed firearm dealer pursuant to paragraph (c) of subsection 1:

(a) The licensed firearm dealer shall provide the adverse party with a receipt which includes a description of each firearm sold or transferred, the serial number of each firearm sold

or transferred and, if the firearm was transferred, whether the transfer is permanent or temporary; and

(b) The adverse party shall, not later than 72 hours or 1 business day, whichever is later, after such sale or transfer, provide the receipt to the court and the appropriate local law enforcement agency.

5. If there is probable cause to believe that the adverse party has not surrendered, sold or transferred any firearm in the adverse party's possession or under the adverse party's custody or control within 24 hours after service of the order, the court may issue and deliver to any law enforcement officer a search warrant which authorizes the law enforcement officer to enter and search any place where there is probable cause to believe any firearm is located and seize the firearm.

6. A local law enforcement agency may charge and collect a fee from the adverse party for the collection and storage of a firearm pursuant to this section. The fee must not exceed the cost incurred by the local law enforcement agency to provide the service.

7. A licensed firearm dealer may charge and collect a fee from the adverse party for the storage of a firearm pursuant to this section.

8. As used in this section, "licensed firearm dealer" means a person licensed pursuant to 18 U.S.C. § 923(a).

## **Criminal convictions**

### **Nev. Rev. Stat. Ann. § 202.361**

1. If a person is prohibited from owning, possessing or having under his or her custody or control a firearm pursuant to NRS 202.360 [including misdemeanor crimes of domestic violence], the court in which the person is convicted shall order the person to surrender any firearm that the person owns or that is in his or her possession or under his or her custody or control to a designated law enforcement agency, a person designated by court order or a licensed firearm dealer, and the person shall, not later than 24 hours after service of the order:

(a) Surrender any firearm that the person owns or that is in his or her possession or under his or her custody or control to the appropriate local law enforcement agency designated by the court in the order;

(b) Surrender any firearm that the person owns or that is in his or her possession or under his or her custody or control to a person designated by the court in the order;

(c) Sell or transfer any firearm that the person owns or that is in his or her possession or under his or her custody or control to a licensed firearm dealer; or

(d) Submit an affidavit:

(1) Informing the court that he or she currently does not own or have any firearm in his or her possession or under his or her custody or control; and

(2) Acknowledging that failure to surrender, sell or transfer any firearm that he or she owns

or has in his or her possession or under his or her custody or control is a violation of the order and state law.

2. If the court orders a person to surrender any firearm to a local law enforcement agency pursuant to paragraph (a) of subsection 1, the law enforcement agency shall provide the person with a receipt which includes a description of each firearm surrendered and the serial number of each firearm surrendered. The person shall, not later than 72 hours or 1 business day, whichever is later, after surrendering any such firearm, provide the receipt to the court.

3. If a person surrenders any firearm to a person designated by the court pursuant to paragraph (b) of subsection 1, the person who surrenders the firearm shall, not later than 72 hours or 1 business day, whichever is later, after the person surrenders any firearm to such person, provide to the court and the appropriate local law enforcement agency the name and address of the person designated in the order and a written description of each firearm surrendered and the serial number of each firearm surrendered to such person.

4. If a person sells or transfers any firearm to a licensed firearm dealer pursuant to paragraph (c) of subsection 1:

(a) The licensed firearm dealer shall provide the person with a receipt which includes a description of each firearm sold or transferred and the serial number of each firearm sold or transferred; and

(b) The person shall, not later than 72 hours or 1 business day, whichever is later, after such sale or transfer, provide the receipt to the court and the appropriate local law enforcement agency.

5. If there is probable cause to believe that the person has not surrendered, sold or transferred any firearm that the person owns or in the person's possession or under the person's custody or control within 24 hours after service of the order, the court may issue and deliver to any law enforcement officer a search warrant which authorizes the law enforcement officer to enter and search any place where there is probable cause to believe any firearm is located and seize the firearm.

6. A local law enforcement agency may charge and collect a fee from the person for the collection of a firearm pursuant to this section. The fee must not exceed the cost incurred by the local law enforcement agency to provide the service.

7. As used in this section, "licensed firearm dealer" means a person licensed pursuant to 18 U.S.C. § 923(a).

# NEW HAMPSHIRE

## Summary: Relinquishment order authorized for qualifying temporary DVPOs and required for permanent DVPOs

Highlighted Provisions:

### **N.H. Rev. Stat. Ann. § 173-B:11(II)**

II. The clerk of the court shall be responsible for advising victims of their right to request that the judge issue an order which may include removing any and all firearms and ammunition in the control, ownership, or possession of the defendant and may include:...

### **N.H. Rev. Stat. Ann. § 173-B:4(I), (II)**

I. Upon a showing of an immediate and present danger of abuse, the court may enter temporary orders to protect the plaintiff with or without actual notice to defendant. The court may issue such temporary orders by telephone or facsimile. Such telephonically issued orders shall be made by a circuit court judge to a law enforcement officer, shall be valid in any jurisdiction in the state, and shall be effective until the close of the next regular court business day. Such orders shall be returnable to the circuit court where the plaintiff resides or to which the plaintiff has fled, unless otherwise ordered by the issuing judge. If non-telephonic temporary orders are made ex parte, the party against whom such relief is issued may file a written request with the clerk of the court and request a hearing on such orders. Such hearing shall be held no less than 3 business days and no more than 5 business days after the request is received by the clerk. Such hearings may constitute the final hearing described in RSA 173-B:3, VII. Such temporary relief may direct the defendant to relinquish to a peace officer any and all firearms and ammunition in the control, ownership, or possession of the defendant, or any other person on behalf of the defendant for the duration of the protective order. Other temporary relief may include:

...

II. The defendant may be prohibited from purchasing, receiving, or possessing any deadly weapons and any and all firearms and ammunition for the duration of the order. The court may subsequently issue a search warrant authorizing the peace officer to seize any deadly weapons specified in the protective order and any and all firearms and ammunition, if there is probable cause to believe such firearms and ammunition and specified deadly weapons are kept on the premises or curtilage of the defendant and if the court has reason to believe that all such firearms and ammunition and specified deadly weapons have not been relinquished by the defendant.

**N.H. Rev. Stat. Ann. § 173-B:5(I), (II)**

I. A finding of abuse shall mean the defendant represents a credible threat to the safety of the plaintiff. Upon a showing of abuse of the plaintiff by a preponderance of the evidence, the court shall grant such relief as is necessary to bring about a cessation of abuse. Such relief shall direct the defendant to relinquish to the peace officer any and all firearms and ammunition in the control, ownership, or possession of the defendant, or any other person on behalf of the defendant for the duration of the protective order. Other relief may include:

...

II. The defendant shall be prohibited from purchasing, receiving, or possessing any deadly weapons and any and all firearms and ammunition for the duration of the order. The court may subsequently issue a search warrant authorizing a peace officer to seize any deadly weapons specified in the protective order and any and all firearms and ammunition, if there is probable cause to believe such firearms and ammunition and specified deadly weapons are kept on the premises or curtilage of the defendant.”

# NEW JERSEY

Summary: Relinquishment order is authorized in qualifying DVPOs and required upon conviction for domestic violence

Highlighted Provisions:

## Civil DVPOs

### **N.J. Stat. Ann. §§ 2C:25-28(c)(2), (j)**

#### **2C:25-28 Filing complaint alleging domestic violence in Family Part; proceeding.**

C....

(2) The plaintiff may provide information concerning firearms to which the defendant has access, including the location of these firearms, if known, on a form to be prescribed by the Administrative Director of the Courts

j. Emergency relief may include forbidding the defendant from returning to the scene of the domestic violence, forbidding the defendant from possessing any firearm or other weapon enumerated in subsection r. of N.J.S.2C:39-1, ordering the search for and seizure of any firearm or other weapon at any location where the judge has reasonable cause to believe the weapon is located and the seizure of any firearms purchaser identification card or permit to purchase a handgun issued to the defendant and any other appropriate relief.

If the order requires the surrender of any firearm or other weapon, a law enforcement officer shall accompany the defendant, or may proceed without the defendant if necessary, to the scene of the domestic violence or any other location where the judge has reasonable cause to believe any firearm or other weapon belonging to the defendant is located, to ensure that the defendant does not gain access to any firearm or other weapon, and that the firearm or other weapon is appropriately surrendered in accordance with the order. If the order prohibits the defendant from returning to the scene of domestic violence or any other location where the judge has reasonable cause to believe any firearm or other weapon belonging to the defendant is located, any firearm or other weapon located there shall be seized by a law enforcement officer. The order shall include notice to the defendant of the penalties for a violation of any provision of the order, including but not limited to the penalties for contempt of court and unlawful possession of a firearm or other weapon pursuant to N.J.S.2C:39-5...

The judge shall state with specificity the reasons for and scope of any search and seizure authorized by the order. The provisions of this subsection prohibiting a defendant from possessing a firearm or other weapon shall not apply to any law enforcement officer while actually on duty, or to any member of the Armed Forces of the United States or member of the National Guard while actually on duty or traveling to or from an authorized place of duty.

## **Criminal convictions**

### **N.J. Stat. Ann. § 2C:25-27(c)**

#### **2C:25-27 Conditions of sentencing of defendant found guilty of domestic violence.**

c. (1) When a defendant is found guilty of a crime or offense involving domestic violence, the court shall inform the defendant that the defendant is prohibited from purchasing, owning, possessing, or controlling a firearm pursuant to section 6 of P.L.1979, c.179 (C.2C:39-7) and from receiving or retaining a firearms purchaser identification card or permit to purchase a handgun pursuant to N.J.S.2C:58-3. The court shall order the defendant to arrange for the immediate surrender to a law enforcement officer of any firearm that has not already been seized or surrendered and any firearms purchaser identification card or permit to purchase a handgun possessed by the defendant. No later than five business days after the order is entered, however, the defendant may arrange to sell any surrendered firearm to a licensed retail dealer of firearms who shall be authorized to take possession of that purchased firearm from the law enforcement agency to which it was surrendered no later than 10 business days after the order is entered. Any card or permit issued to the defendant shall be deemed immediately revoked. The court shall establish a process for notifying the appropriate authorities of the conviction requiring the revocation of the card or permit. A law enforcement officer accepting a surrendered firearm shall provide the defendant with a receipt listing the date of surrender, the name of the defendant, and any item that has been surrendered, including the serial number, manufacturer, and model of the surrendered firearm. The defendant shall provide a copy of this receipt to the prosecutor within 48 hours of service of the order, and shall attest under penalty that any firearms owned or possessed at the time of the order have been transferred in accordance with this section and that the defendant currently does not possess any firearms. The defendant alternatively may attest under penalty that he did not own or possess a firearm at the time of the order and currently does not possess a firearm. If the court, upon motion of the prosecutor, finds probable cause that the defendant has failed to surrender any firearm, card, or permit, the court may order a search for and removal of these items at any location where the judge has reasonable cause to believe these items are located. The judge shall state with specificity the reasons for and the scope of the search and seizure authorized by the order.

(2) A law enforcement officer who receives a firearm that is surrendered, but not purchased and taken possession of by a licensed retail dealer of firearms within 10 business days of when the order is entered pursuant to paragraph (1) of this subsection, may dispose of the surrendered firearm in accordance with the provisions of N.J.S.2C:64-6. A firearm purchased by a licensed retail dealer from a defendant shall become part of the inventory of the dealer.

# NEW MEXICO

## Summary: Relinquishment order required in qualifying DVPOs.

Highlighted Provisions:

### **N.M. Stat. Ann. § 40-13-5(A)(2)(a)**

A. Upon finding that domestic abuse has occurred or upon stipulation of the parties, the court shall enter an order of protection ordering the restrained party to:

...

(2) if the order is issued pursuant to this section and if the court also determines that the restrained party presents a credible threat to the physical safety of the household member after the restrained party has received notice and had an opportunity to be heard or by stipulation of the parties, to:

(a) deliver any firearm in the restrained party's possession, care, custody or control to a law enforcement agency, law enforcement officer or federal firearms licensee while the order of protection is in effect; and

...

### **N.M. Stat. Ann. § 40-13-13**

A. After the court has issued notice that the restrained party is subject to the provisions of Paragraph (2) of Subsection A of Section 40-13-5 NMSA 1978, the restrained party shall relinquish all firearms in the restrained party's immediate possession or control or subject to the restrained party's possession or control in a safe manner to a law enforcement officer, a law enforcement agency or federal firearms licensee within forty-eight hours of service of the order.

B. A law enforcement officer or law enforcement agency shall take possession of all firearms subject to the order of protection that are relinquished by the restrained party or are in plain sight or are discovered pursuant to a lawful search.

C. A law enforcement officer or law enforcement agency that takes temporary possession of a firearm pursuant to this section shall:

- (1) prepare a receipt identifying all firearms that have been relinquished or taken;
- (2) provide a copy of the receipt to the restrained party;
- (3) provide a copy of the receipt to the petitioner within seventy-two hours of taking possession of the firearm;



- (4) file the original receipt with the court that issued the order of protection within seventy-two hours of taking possession of the firearm; and
- (5) ensure that the law enforcement agency retains a copy of the receipt.

D. An order of protection issued pursuant to Section 40-13-5 NMSA 1978 shall include:

- (1) a statement that the restrained party shall not purchase, receive, transport, possess or have custody or control of a firearm while the order of protection is in effect;
- (2) a description of the requirements for the relinquishment of firearms as provided in this section;
- (3) a statement that within seventy-two hours of the issuance of the order of protection the restrained party must file with the court issuing the order:
  - (a) a receipt identifying all firearms that have been relinquished or taken by a law enforcement officer or law enforcement agency; or
  - (b) a declaration of non-relinquishment;
- (4) the expiration date of relinquishment;
- (5) the address of the court that issued the order of protection; and
- (6) a statement that violation of any provision of the order of protection is a violation of state law and that federal law, 18 U.S.C. 922, et seq., prohibits possession of firearms by certain persons.

E. If the respondent is present at the hearing on the order of protection, the court shall provide the respondent with a receipt form to identify all firearms to be surrendered or, if the respondent has no firearms to relinquish, a declaration of non-relinquishment. The court shall accept the completed form from the respondent for immediate filing.

F. Evidence establishing ownership or possession of a firearm pursuant to this section shall not be admissible as evidence in any criminal proceeding.

G. The law enforcement agency or federal firearms licensee with custody of a surrendered or seized firearm shall make the firearm available to a formerly restrained party within three business days of receipt of a request from a formerly restrained party who is then currently eligible to own and possess a firearm.

H. A formerly restrained party who has surrendered or had firearms taken by a law enforcement officer or law enforcement agency pursuant to this section who does not wish the firearm returned or who is no longer eligible to possess a firearm may sell or transfer the firearm to a federal firearms licensee. The law enforcement agency shall not release the firearm to a federal firearms licensee until:

- (1) the federal firearms licensee has displayed proof that the formerly restrained party has transferred the firearm to the licensee; and
- (2) the law enforcement agency has verified the transfer with the formerly restrained party.

I. A law enforcement agency holding a firearm relinquished pursuant to this section may dispose of the firearm twelve months from the date of proper notice to the formerly restrained party of the intent to dispose of the firearm, unless another person claiming to be the lawful owner presents written proof of ownership. If the firearm remains unclaimed after twelve months from the date of notice, no party shall assert ownership and the law enforcement agency may dispose of the firearm. For the purposes of this subsection, “dispose” means to destroy a firearm or sell or transfer the firearm to a federal firearms licensee.

J. The provisions of this section shall not be interpreted to require a federal firearms licensee to purchase or accept possession of a firearm from a restrained party.

K. The administrative office of the courts shall develop a standard receipt form and declaration of non-relinquishment form for use under this section.

# NEW YORK

## Summary: Relinquishment order required in qualifying civil and criminal DVPOs in certain circumstances and upon conviction of

Highlighted Provisions:

### **Civil DVPOs**

#### **N.Y. Fam. Ct. Act § 842-a**

1. Suspension of firearms license and ineligibility for such a license upon the issuance of a temporary order of protection. Whenever a temporary order of protection is issued pursuant to section eight hundred twenty-eight of this article, or pursuant to article four, five, six, seven or ten of this act the court shall inquire of the respondent and, outside of the presence of the respondent, the petitioner or, if the petitioner is not the protected party, any party protected by such order, if the court has reason to believe that such petitioner or protected party would have actual knowledge or reason to know such information, as to the existence and location of any firearm, rifle or shotgun owned or possessed by the respondent and:

(a) the court shall suspend any such existing license possessed by the respondent, order the respondent ineligible for such a license, and order the immediate surrender pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law, of any or all firearms, rifles and shotguns owned or possessed where the court receives information that gives the court good cause to believe that: (i) the respondent has a prior conviction of any violent felony offense as defined in section 70.02 of the penal law; (ii) the respondent has previously been found to have willfully failed to obey a prior order of protection and such willful failure involved (A) the infliction of physical injury, as defined in subdivision nine of section 10.00 of the penal law, (B) the use or threatened use of a deadly weapon or dangerous instrument as those terms are defined in subdivisions twelve and thirteen of section 10.00 of the penal law, or (C) behavior constituting any violent felony offense as defined in section 70.02 of the penal law; or (iii) the respondent has a prior conviction for stalking in the first degree as defined in section 120.60 of the penal law, stalking in the second degree as defined in section 120.55 of the penal law, stalking in the third degree as defined in section 120.50 of the penal law or stalking in the fourth degree as defined in section 120.45 of such law;

(b) the court shall where the court finds a substantial risk that the respondent may use or threaten to use a firearm, rifle or shotgun unlawfully against the person or persons for whose protection the temporary order of protection is issued, suspend any such existing license possessed by the respondent, order the respondent ineligible for such a license, and order

the immediate surrender pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law, of any or all firearms, rifles and shotguns owned or possessed; and

(c) the court shall where the defendant willfully refuses to surrender such firearm, rifle or shotgun pursuant to paragraphs (a) and (b) of this subdivision, or may for other good cause shown, order the immediate seizure of such firearm, rifle or shotgun, and search therefor, pursuant to an order issued in accordance with article six hundred ninety of the criminal procedure law, consistent with such rights as the defendant may derive from this article or the constitution of this state or the United States.

2. Revocation or suspension of firearms license and ineligibility for such a license upon the issuance of an order of protection. Whenever an order of protection is issued pursuant to section eight hundred forty-one of this part, or pursuant to article four, five, six, seven or ten of this act the court shall inquire of the respondent and, outside of the presence of the respondent, the petitioner or, if the petitioner is not the protected party, any party protected by such order, if the court has reason to believe that such petitioner or protected party would have actual knowledge or reason to know such information, as to the existence and location of any firearm, rifle or shotgun owned or possessed by the respondent and:

(a) the court shall revoke any such existing license possessed by the respondent, order the respondent ineligible for such a license, and order the immediate surrender pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law, of any or all firearms, rifles and shotguns owned or possessed where the court finds that the conduct which resulted in the issuance of the order of protection involved (i) the infliction of physical injury, as defined in subdivision nine of section 10.00 of the penal law, (ii) the use or threatened use of a deadly weapon or dangerous instrument as those terms are defined in subdivisions twelve and thirteen of section 10.00 of the penal law, or (iii) behavior constituting any violent felony offense as defined in section 70.02 of the penal law;

(b) the court shall, where the court finds a substantial risk that the respondent may use or threaten to use a firearm, rifle or shotgun unlawfully against the person or persons for whose protection the order of protection is issued, (i) revoke any such existing license possessed by the respondent, order the respondent ineligible for such a license and order the immediate surrender pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law, of any or all firearms, rifles and shotguns owned or possessed or (ii) suspend or continue to suspend any such existing license possessed by the respondent, order the respondent ineligible for such a license, and order the immediate surrender pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law, of any or all firearms, rifles and shotguns owned or possessed; and

(c) the court shall where the defendant willfully refuses to surrender such firearm, rifle or shotgun pursuant to paragraphs (a) and (b) of this subdivision, or may for other good cause shown, order the immediate seizure of such firearm, rifle or shotgun, and search therefor,

pursuant to an order issued in accordance with article six hundred ninety of the criminal procedure law, consistent with such rights as the defendant may derive from this article or the constitution of this state or the United States.

3. Revocation or suspension of firearms license and ineligibility for such a license upon a finding of a willful failure to obey an order of protection or temporary order of protection. Whenever a respondent has been found, pursuant to section eight hundred forty-six-a of this part to have willfully failed to obey an order of protection or temporary order of protection issued pursuant to this act or the domestic relations law, or by this court or by a court of competent jurisdiction in another state, territorial or tribal jurisdiction, in addition to any other remedies available pursuant to section eight hundred forty-six-a of this part the court shall inquire of the respondent and, outside the presence of the respondent, the petitioner or, if the petitioner is not the protected party, any party protected by such order, if the court has reason to believe that such petitioner or protected party would have actual knowledge or reason to know such information, as to the existence and location of any firearm, rifle or shotgun owned or possessed by the respondent and:

(a) the court shall revoke any such existing license possessed by the respondent, order the respondent ineligible for such a license, and order the immediate surrender pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law, of any or all firearms, rifles and shotguns owned or possessed where the willful failure to obey such order involves (i) the infliction of physical injury, as defined in subdivision nine of section 10.00 of the penal law, (ii) the use or threatened use of a deadly weapon or dangerous instrument as those terms are defined in subdivisions twelve and thirteen of section 10.00 of the penal law, or (iii) behavior constituting any violent felony offense as defined in section 70.02 of the penal law; or (iv) behavior constituting stalking in the first degree as defined in section 120.60 of the penal law, stalking in the second degree as defined in section 120.55 of the penal law, stalking in the third degree as defined in section 120.50 of the penal law or stalking in the fourth degree as defined in section 120.45 of such law;

(b) the court shall where the court finds a substantial risk that the respondent may use or threaten to use a firearm, rifle or shotgun unlawfully against the person or persons for whose protection the order of protection was issued, (i) revoke any such existing license possessed by the respondent, order the respondent ineligible for such a license, whether or not the respondent possesses such a license, and order the immediate surrender pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law, of any or all firearms, rifles and shotguns owned or possessed or (ii) suspend any such existing license possessed by the respondent, order the respondent ineligible for such a license, and order the immediate surrender of any or all firearms, rifles and shotguns owned or possessed; and

(c) the court shall where the defendant willfully refuses to surrender such firearm, rifle or shotgun pursuant to paragraphs (a) and (b) of this subdivision, or may for other good cause shown, order the immediate seizure of such firearm, rifle or shotgun, and search therefor,

pursuant to an order issued in accordance with article six hundred ninety of the criminal procedure law, consistent with such rights as the defendant may derive from this article or the constitution of this state or the United States.

4. Suspension. Any suspension order issued pursuant to this section shall remain in effect for the duration of the temporary order of protection or order of protection, unless modified or vacated by the court.

5. Surrender.

(a) Where an order to surrender one or more firearms, rifles or shotguns has been issued, the temporary order of protection or order of protection shall specify the place where such weapons shall be surrendered, shall specify a date and time by which the surrender shall be completed and, to the extent possible, shall describe such weapons to be surrendered and shall direct the authority receiving such surrendered weapons to immediately notify the court of such surrender.

(b) The prompt surrender of one or more firearms, rifles or shotguns pursuant to a court order issued pursuant<sup>1</sup> this section shall be considered a voluntary surrender for purposes of subparagraph (f) of paragraph one of subdivision a of section 265.20 of the penal law. The disposition of any such weapons shall be in accordance with the provisions of subdivision six of section 400.05 of the penal law; provided, however that upon the termination of any suspension order issued pursuant to this section, any court of record exercising criminal jurisdiction may order the return of a firearm, rifle or shotgun pursuant to paragraph b of subdivision five of section 530.14 of the criminal procedure law.

(c) The provisions of this section shall not be deemed to limit, restrict or otherwise impair the authority of the court to order and direct the surrender of any or all pistols, revolvers, rifles, shotguns or other firearms owned or possessed by a respondent pursuant to this act.

6. Notice.

(a) Where an order requiring surrender, revocation, suspension, seizure or ineligibility has been issued pursuant to this section, any temporary order of protection or order of protection issued shall state that such firearm license has been suspended or revoked or that the respondent is ineligible for such license, as the case may be, and that the defendant is prohibited from possessing any firearms, rifles or shotguns.

(b) The court revoking or suspending the license, ordering the respondent ineligible for such license, or ordering the surrender or seizure of any firearm, rifles or shotguns<sup>2</sup> shall immediately notify the statewide registry of orders of protection and the duly constituted police authorities of the locality of such action.

(c) The court revoking or suspending the license or ordering the defendant ineligible for such license shall give written notice thereof without unnecessary delay to the division of state police at its office in the city of Albany.

(d) Where an order of revocation, suspension, ineligibility, surrender, or seizure is modified or vacated, the court shall immediately notify the statewide registry of orders of protection

and the duly constituted police authorities of the locality concerning such action and shall give written notice thereof without unnecessary delay to the division of state police at its office in the city of Albany.

7. Hearing. The respondent shall have the right to a hearing before the court regarding any revocation, suspension, ineligibility, surrender or seizure order issued pursuant to this section, provided that nothing in this subdivision shall preclude the court from issuing any such order prior to a hearing. Where the court has issued such an order prior to a hearing, it shall commence such hearing within fourteen days of the date such order was issued.

8. Nothing in this section shall delay or otherwise interfere with the issuance of a temporary order of protection.

### **Criminal DVPOs**

#### **N.Y. Crim. Proc. Law § 530.14**

§ 530.14 Suspension and revocation of a license to carry, possess, repair or dispose of a firearm or firearms pursuant to section 400.00 of the penal law and ineligibility for such a license; order to surrender firearms; order to seize firearms.

1. Suspension of firearms license and ineligibility for such a license upon issuance of temporary order of protection. Whenever a temporary order of protection is issued pursuant to subdivision one of section 530.12 or subdivision one of section 530.13 of this article the court shall inquire of the defendant and the prosecutor as to the existence and location of any firearm, rifle or shotgun reasonably believed to be owned or possessed by the defendant, and the prosecutor will make reasonable efforts to obtain such information regarding the same and present it to the court and:

(a) the court shall suspend any such existing license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender of any or all firearms, rifles and shotguns owned or possessed where the court receives information that gives the court good cause to believe that (i) the defendant has a prior conviction of any violent felony offense as defined in section 70.02 of the penal law; (ii) the defendant has previously been found to have willfully failed to obey a prior order of protection and such willful failure involved (A) the infliction of physical injury, as defined in subdivision nine of section 10.00 of the penal law, (B) the use or threatened use of a deadly weapon or dangerous instrument as those terms are defined in subdivisions twelve and thirteen of section 10.00 of the penal law, or (C) behavior constituting any violent felony offense as defined in section 70.02 of the penal law; or (iii) the defendant has a prior conviction for stalking in the first degree as defined in section 120.60 of the penal law, stalking in the second degree as defined in section 120.55 of the penal law, stalking in the third degree as defined in section 120.50 of the penal law or stalking in the fourth degree as defined in section 120.45 of such law;

(b) the court shall where the court finds a substantial risk that the defendant may use or threaten to use a firearm, rifle or shotgun unlawfully against the person or persons for whose

protection the temporary order of protection is issued, suspend any such existing license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law, of any or all firearms, rifles and shotguns owned or possessed; and

(c) the court shall where the defendant willfully refuses to surrender such firearm, rifle or shotgun pursuant to paragraphs (a) and (b) of this subdivision, or may for other good cause shown, order the immediate seizure of such firearm, rifle or shotgun, and search therefor, pursuant to an order issued in accordance with article six hundred ninety of this part, consistent with such rights as the defendant may derive from this article or the constitution of this state or the United States.

2. Revocation or suspension of firearms license and ineligibility for such a license upon issuance of an order of protection. Whenever an order of protection is issued pursuant to subdivision five of section 530.12 or subdivision four of section 530.13 of this article the court shall inquire of the defendant and the prosecutor as to the existence and location of any firearm, rifle or shotgun reasonably believed to be owned or possessed by the defendant, and the prosecutor will make reasonable efforts to obtain such information regarding the same and present it to the court and:

(a) the court shall revoke any such existing license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender of any or all firearms, rifles and shotguns owned or possessed where such action is required by section 400.00 of the penal law;

(b) the court shall where the court finds a substantial risk that the defendant may use or threaten to use a firearm, rifle or shotgun unlawfully against the person or persons for whose protection the order of protection is issued, (i) revoke any such existing license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender of any or all firearms, rifles and shotguns owned or possessed or (ii) suspend or continue to suspend any such existing license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law, of any or all firearms, rifles and shotguns owned or possessed; and

(c) the court shall where the defendant willfully refuses to surrender such firearm, rifle or shotgun pursuant to paragraphs (a) and (b) of this subdivision, or may for other good cause shown, order the immediate seizure of such firearm, rifle or shotgun, and search therefor, pursuant to an order issued in accordance with article six hundred ninety of this part, consistent with such rights as the defendant may derive from this article or the constitution of this state or the United States.

3. Revocation or suspension of firearms license and ineligibility for such a license upon a finding of a willful failure to obey an order of protection. Whenever a defendant has been found pursuant



to subdivision eleven of section 530.12 or subdivision eight of section 530.13 of this article to have willfully failed to obey an order of protection issued by a court of competent jurisdiction in this state or another state, territorial or tribal jurisdiction, in addition to any other remedies available pursuant to subdivision eleven of section 530.12 or subdivision eight of section 530.13 of this article the court shall inquire of the defendant and the prosecutor as to the existence and location of any firearm, rifle or shotgun reasonably believed to be owned or possessed by the defendant, and the prosecutor will make reasonable efforts to obtain such information regarding the same and present it to the court and:

(a) the court shall revoke any such existing license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender of any or all firearms, rifles and shotguns owned or possessed where the willful failure to obey such order involved (i) the infliction of physical injury, as defined in subdivision nine of section 10.00 of the penal law, (ii) the use or threatened use of a deadly weapon or dangerous instrument as those terms are defined in subdivisions twelve and thirteen of section 10.00 of the penal law, (iii) behavior constituting any violent felony offense as defined in section 70.02 of the penal law; or (iv) behavior constituting stalking in the first degree as defined in section 120.60 of the penal law, stalking in the second degree as defined in section 120.55 of the penal law, stalking in the third degree as defined in section 120.50 of the penal law or stalking in the fourth degree as defined in section 120.45 of such law;

(b) the court shall where the court finds a substantial risk that the defendant may use or threaten to use a firearm, rifle or shotgun unlawfully against the person or persons for whose protection the order of protection was issued, (i) revoke any such existing license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law, of any or all firearms, rifles and shotguns owned or possessed or (ii) suspend any such existing license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law, of any or all firearms, rifles and shotguns owned or possessed; and

(c) the court shall where the defendant willfully refuses to surrender such firearm, rifle or shotgun pursuant to paragraphs (a) and (b) of this subdivision, or may for other good cause shown, order the immediate seizure of such firearm, rifle or shotgun, and search therefor, pursuant to an order issued in accordance with article six hundred ninety of this part, consistent with such rights as the defendant may derive from this article or the constitution of this state or the United States.

4. Suspension. Any suspension order issued pursuant to this section shall remain in effect for the duration of the temporary order of protection or order of protection, unless modified or vacated by the court.

5. Surrender.

(a) Where an order to surrender one or more firearms, rifles and shotguns has been issued,

the temporary order of protection or order of protection shall specify the place where such weapons shall be surrendered, shall specify a date and time by which the surrender shall be completed and, to the extent possible, shall describe such weapons to be surrendered, and shall direct the authority receiving such surrendered weapons to immediately notify the court of such surrender.

(b) The prompt surrender of one or more firearms, rifles or shotguns pursuant to a court order issued pursuant to this section shall be considered a voluntary surrender for purposes of subparagraph (f) of paragraph one of subdivision a of section 265.20 of the penal law. The disposition of any such weapons, including weapons ordered to be seized pursuant to this section and section eight hundred forty-two-a of the family court act, shall be in accordance with the provisions of subdivision six of section 400.05 of the penal law; provided, however, that upon termination of any suspension order issued pursuant to this section or section eight hundred forty-two-a of the family court act, upon written application of the subject of the order, with notice and opportunity to be heard to the district attorney, the county attorney, the protected party, and every licensing officer responsible for issuance of a firearms license to the subject of the order pursuant to article four hundred of the penal law, and upon a written finding that there is no legal impediment to the subject's possession of a surrendered firearm, rifle or shotgun, any court of record exercising criminal jurisdiction may order the return of a firearm, rifle or shotgun not otherwise disposed of in accordance with subdivision six of section 400.05 of the penal law. When issuing such order in connection with any firearm subject to a license requirement under article four hundred of the penal law, if the licensing officer informs the court that he or she will seek to revoke the license, the order shall be stayed by the court until the conclusion of any license revocation proceeding.

(c) The provisions of this section shall not be deemed to limit, restrict or otherwise impair the authority of the court to order and direct the surrender of any or all firearms, rifles and shotguns owned or possessed by a defendant pursuant to sections 530.12 or 530.13 of this article.

(d) If any other person demonstrates that such person is the lawful owner of any weapon taken into custody pursuant to this section or section eight hundred forty-two-a of the family court act, and provided that the court has made a written finding that there is no legal impediment to the person's possession of such a weapon, such court shall direct that such weapon be returned to such lawful owner.

## 6. Notice.

(a) Where an order requiring surrender, revocation, suspension, seizure or ineligibility has been issued pursuant to this section, any temporary order of protection or order of protection issued shall state that such firearm license has been suspended or revoked or that the defendant is ineligible for such license, as the case may be, and that the defendant is prohibited from possessing any firearm, rifle or shotgun.

(b) The court revoking or suspending the license, ordering the defendant ineligible for such a license, or ordering the surrender or seizure of any firearm, rifle or shotgun shall

immediately notify the duly constituted police authorities of the locality concerning such action and, in the case of orders of protection and temporary orders of protection issued pursuant to section 530.12 of this article, shall immediately notify the statewide registry of orders of protection.

(c) The court revoking or suspending the license or ordering the defendant ineligible for such a license shall give written notice thereof without unnecessary delay to the division of state police at its office in the city of Albany.

(d) Where an order of revocation, suspension, ineligibility, surrender or seizure is modified or vacated, the court shall immediately notify the statewide registry of orders of protection and the duly constituted police authorities of the locality concerning such action and shall give written notice thereof without unnecessary delay to the division of state police at its office in the city of Albany.

7. Hearing. The defendant shall have the right to a hearing before the court regarding any revocation, suspension, ineligibility, surrender or seizure order issued pursuant to this section, provided that nothing in this subdivision shall preclude the court from issuing any such order prior to a hearing. Where the court has issued such an order prior to a hearing, it shall commence such hearing within fourteen days of the date such order was issued.

8. Nothing in this section shall delay or otherwise interfere with the issuance of a temporary order of protection or the timely arraignment of a defendant in custody.

### **Convictions for felonies and “serious offenses,” i.e. misdemeanor crimes of domestic violence)**

#### **N.Y. Crim. Proc. Law § 370.25**

1. Upon judgment of conviction for a felony or a serious offense, the court shall inquire of the defendant as to the existence of all firearms, rifles and shotguns he or she owns or possesses. The court shall order the immediate surrender, pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 of the penal law and subdivision six of section 400.05 of the penal law, of any or all firearms, rifles and shotguns owned or possessed by the defendant.

2. The court ordering the surrender of any firearms, rifles or shotguns as provided in this section shall immediately notify the duly constituted police authorities of the locality of such action and the division of state police at its office in the city of Albany. The court shall direct the authority receiving such surrendered firearms, rifles and shotguns to immediately notify the court of such surrender.

3. The disposition of any firearms, rifles or shotguns surrendered pursuant to this section shall be in accordance with the provisions of subdivision six of section 400.05 of the penal law.

4. The provisions of this section shall not be deemed to limit, restrict or otherwise impair the authority of the court to order and direct the surrender of any or all firearms, rifles and shotguns owned or possessed by a defendant pursuant to any other provision of law.

## **N.Y. Crim. Proc. Law § 380.96**

### **§ 380.96 Obligation of sentencing court pursuant to article four hundred of the penal law.**

Upon judgment of conviction of any offense which would require the seizure of firearms, shotguns or rifles from an individual so convicted, and the revocation of any license or registration issued pursuant to article four hundred of the penal law, the judge pronouncing sentence shall demand surrender of any such license or registration and all firearms, shotguns and rifles. The failure to so demand surrender shall not effect the validity of any revocation pursuant to article four hundred of the penal law.

### **Immunity and surrender process**

#### **N.Y. Penal Law § 265.20(a)(1)(f) - immunity while surrendering**

a. Paragraph (h) of subdivision twenty-two of section 265.00 and sections 265.01, 265.01-a, 265.01-b, 265.01-c, 265.02, 265.03, 265.04, 265.05, 265.10, 265.11, 265.12, 265.13, 265.15, 265.36, 265.37, 265.50, 265.55 and 270.05 shall not apply to:

1. Possession of any of the weapons, instruments, appliances or substances specified in sections 265.01, 265.01-c, 265.02, 265.03, 265.04, 265.05, 265.50, 265.55 and 270.05 by the following:

(f) A person voluntarily surrendering such weapon, instrument, appliance or substance, provided that such surrender shall be made to the superintendent of the division of state police or a member thereof designated by such superintendent, or to the sheriff of the county in which such person resides, or in the county of Nassau or in the towns of Babylon, Brookhaven, Huntington, Islip and Smithtown in the county of Suffolk to the commissioner of police or a member of the police department thereof designated by such commissioner, or if such person resides in a city, town other than one named in this subparagraph, or village to the police commissioner or head of the police force or department thereof or to a member of the force or department designated by such commissioner or head; and provided, further, that the same shall be surrendered by such person in accordance with such terms and conditions as may be established by such superintendent, sheriff, police force or department. Nothing in this paragraph shall be construed as granting immunity from prosecution for any crime or offense except that of unlawful possession of such weapons, instruments, appliances or substances surrendered as herein provided. A person who possesses any such weapon, instrument, appliance or substance as an executor or administrator or any other lawful possessor of such property of a decedent may continue to possess such property for a period not over fifteen days. If such property is not lawfully disposed of within such period the possessor shall deliver it to an appropriate official described in this paragraph or such property may be delivered to the superintendent of state police. Such officer shall hold it and shall thereafter deliver it on the written request of such executor, administrator or other lawful possessor of such property to a named person, provided such named person is licensed to or is otherwise lawfully permitted to possess the same. If no request to deliver the property is received by such official within one year of the delivery of such property, such official shall dispose of it in accordance with the provisions of section 400.05 of this chapter.

**N.Y. Penal Law § 400.00(11)(a), (c) - general provision to surrender**

11. License: revocation and suspension.

(a) The conviction of a licensee anywhere of a felony or serious offense or a licensee at any time becoming ineligible to obtain a license, including engaging in conduct that would have resulted in the denial of a license, under this section shall operate as or be grounds for, a revocation of the license. A license may be revoked or suspended as provided for in section 530.14 of the criminal procedure law [DVPO] or section eight hundred forty-two-a of the family court act [DVPO]. Except for a license issued pursuant to section 400.01 of this article, a license may be revoked and cancelled at any time in the city of New York, and in the counties of Nassau and Suffolk, by the licensing officer, and elsewhere than in the city of New York by any judge or justice of a court of record; a license issued pursuant to section 400.01 of this article may be revoked and cancelled at any time by the licensing officer or any judge or justice of a court of record

(c) In any instance in which a person's license is suspended or revoked under paragraph (a) or (b) of this subdivision, such person shall surrender such license to the appropriate licensing official and any and all firearms, rifles, or shotguns owned or possessed by such person shall be surrendered to an appropriate law enforcement agency as provided in subparagraph (f) of paragraph one of subdivision a of section 265.20 of this chapter. In the event such license, firearm, shotgun, or rifle is not surrendered, such items shall be removed and declared a nuisance and any police officer or peace officer acting pursuant to his or her special duties is authorized to remove any and all such weapons.

**N.Y. Penal Law § 400.05(6) - process following surrender under § 400.00**

6. A firearm or other weapon which is surrendered, or is otherwise voluntarily delivered pursuant to section 265.20 of this chapter and which has not been declared a nuisance pursuant to subdivision one of this section, shall be retained by the official to whom it was delivered for a period not to exceed one year. Prior to the expiration of such time period, a person who surrenders a firearm shall have the right to arrange for the sale, or transfer, of such firearm to a dealer in firearms licensed in accordance with this chapter or for the transfer of such firearm to himself or herself provided that a license therefor has been issued in accordance with this chapter. If no lawful disposition of the firearm or other weapon is made within the time provided, the firearm or weapon concerned shall be declared a nuisance and shall be disposed of in accordance with the provisions of this section.

# NORTH CAROLINA

Summary: Relinquishment order required in qualifying DVPOs in certain circumstances.

Highlighted Provisions:

## **N.C. Gen. Stat. § 50B-3.1**

### **§ 50B-3.1. Surrender and disposal of firearms; violations; exemptions.**

(a) Required Surrender of Firearms. – Upon issuance of an emergency or ex parte order pursuant to this Chapter, the court shall order the defendant to surrender to the sheriff all firearms, machine guns, ammunition, permits to purchase firearms, and permits to carry concealed firearms that are in the care, custody, possession, ownership, or control of the defendant if the court finds any of the following factors:

(1) The use or threatened use of a deadly weapon by the defendant or a pattern of prior conduct involving the use or threatened use of violence with a firearm against persons.

(2) Threats to seriously injure or kill the aggrieved party or minor child by the defendant.

(3) Threats to commit suicide by the defendant.

(4) Serious injuries inflicted upon the aggrieved party or minor child by the defendant.

(b) Ex Parte or Emergency Hearing. – The court shall inquire of the plaintiff, at the ex parte or emergency hearing, the presence of, ownership of, or otherwise access to firearms by the defendant, as well as ammunition, permits to purchase firearms, and permits to carry concealed firearms, and include, whenever possible, identifying information regarding the description, number, and location of firearms, ammunition, and permits in the order.

(c) Ten-Day Hearing. – The court, at the 10-day hearing, shall inquire of the defendant the presence of, ownership of, or otherwise access to firearms by the defendant, as well as ammunition, permits to purchase firearms, and permits to carry concealed firearms, and include, whenever possible, identifying information regarding the description, number, and location of firearms, ammunition, and permits in the order.

(d) Surrender. – Upon service of the order, the defendant shall immediately surrender to the sheriff possession of all firearms, machine guns, ammunition, permits to purchase firearms, and permits to carry concealed firearms that are in the care, custody, possession, ownership, or control of the defendant. In the event that weapons cannot be surrendered at the time the order is served, the defendant shall surrender the firearms, ammunitions, and permits to the

sheriff within 24 hours of service at a time and place specified by the sheriff. The sheriff shall store the firearms or contract with a licensed firearms dealer to provide storage.

(1) If the court orders the defendant to surrender firearms, ammunition, and permits, the court shall inform the plaintiff and the defendant of the terms of the protective order and include these terms on the face of the order, including that the defendant is prohibited from possessing, purchasing, or receiving or attempting to possess, purchase, or receive a firearm for so long as the protective order or any successive protective order is in effect. The terms of the order shall include instructions as to how the defendant may request retrieval of any firearms, ammunition, and permits surrendered to the sheriff when the protective order is no longer in effect. The terms shall also include notice of the penalty for violation of G.S. 14-269.8.

(2) The sheriff may charge the defendant a reasonable fee for the storage of any firearms and ammunition taken pursuant to a protective order. The fees are payable to the sheriff. The sheriff shall transmit the proceeds of these fees to the county finance officer. The fees shall be used by the sheriff to pay the costs of administering this section and for other law enforcement purposes. The county shall expend the restricted funds for these purposes only. The sheriff shall not release firearms, ammunition, or permits without a court order granting the release. The defendant must remit all fees owed prior to the authorized return of any firearms, ammunition, or permits. The sheriff shall not incur any civil or criminal liability for alleged damage or deterioration due to storage or transportation of any firearms or ammunition held pursuant to this section.

(e) Retrieval. – If the court does not enter a protective order when the ex parte or emergency order expires, the defendant may retrieve any weapons surrendered to the sheriff unless the court finds that the defendant is precluded from owning or possessing a firearm pursuant to State or federal law or final disposition of any pending criminal charges committed against the person that is the subject of the current protective order.

(f) Motion for Return. – The defendant may request the return of any firearms, ammunition, or permits surrendered by filing a motion with the court at the expiration of the current order or final disposition of any pending criminal charges committed against the person that is the subject of the current protective order and not later than 90 days after the expiration of the current order or final disposition of any pending criminal charges committed against the person that is the subject of the current protective order. Upon receipt of the motion, the court shall schedule a hearing and provide written notice to the plaintiff who shall have the right to appear and be heard and to the sheriff who has control of the firearms, ammunition, or permits. The court shall determine whether the defendant is subject to any State or federal law or court order that precludes the defendant from owning or possessing a firearm. The inquiry shall include:

(1) Whether the protective order has been renewed.

(2) Whether the defendant is subject to any other protective orders.

(3) Whether the defendant is disqualified from owning or possessing a firearm pursuant to 18 U.S.C. § 922 or any State law.

(4) Whether the defendant has any pending criminal charges, in either State or federal court, committed against the person that is the subject of the current protective order.

The court shall deny the return of firearms, ammunition, or permits if the court finds that the defendant is precluded from owning or possessing a firearm pursuant to State or federal law or if the defendant has any pending criminal charges, in either State or federal court, committed against the person that is the subject of the current protective order until the final disposition of those charges.

(g) Motion for Return by Third-Party Owner. – A third-party owner of firearms, ammunition, or permits who is otherwise eligible to possess such items may file a motion requesting the return to said third party of any such items in the possession of the sheriff seized as a result of the entry of a domestic violence protective order. The motion must be filed not later than 30 days after the seizure of the items by the sheriff. Upon receipt of the third party's motion, the court shall schedule a hearing and provide written notice to all parties and the sheriff. The court shall order return of the items to the third party unless the court determines that the third party is disqualified from owning or possessing said items pursuant to State or federal law. If the court denies the return of said items to the third party, the items shall be disposed of by the sheriff as provided in subsection (h) of this section.

(h) Disposal of Firearms. – If the defendant does not file a motion requesting the return of any firearms, ammunition, or permits surrendered within the time period prescribed by this section, if the court determines that the defendant is precluded from regaining possession of any firearms, ammunition, or permits surrendered, or if the defendant or third-party owner fails to remit all fees owed for the storage of the firearms or ammunition within 30 days of the entry of the order granting the return of the firearms, ammunition, or permits, the sheriff who has control of the firearms, ammunition, or permits shall give notice to the defendant, and the sheriff shall apply to the court for an order of disposition of the firearms, ammunition, or permits. The judge, after a hearing, may order the disposition of the firearms, ammunition, or permits in one or more of the ways authorized by law, including subdivision (4), (4b), (5), or (6) of G.S. 14-269.1. If a sale by the sheriff does occur, any proceeds from the sale after deducting any costs associated with the sale, and in accordance with all applicable State and federal law, shall be provided to the defendant, if requested by the defendant by motion made before the hearing or at the hearing and if ordered by the judge.

(i) It is unlawful for any person subject to a protective order prohibiting the possession or purchase of firearms to:

(1) Fail to surrender all firearms, ammunition, permits to purchase firearms, and permits to carry concealed firearms to the sheriff as ordered by the court;

(2) Fail to disclose all information pertaining to the possession of firearms, ammunition, and permits to purchase and permits to carry concealed firearms as requested by the court; or

(3) Provide false information to the court pertaining to any of these items.



(j) Violations. – In accordance with G.S. 14-269.8, it is unlawful for any person to possess, purchase, or receive or attempt to possess, purchase, or receive a firearm, as defined in G.S. 14-409.39(2), machine gun, ammunition, or permits to purchase or carry concealed firearms if ordered by the court for so long as that protective order or any successive protective order entered against that person pursuant to this Chapter is in effect. Any defendant violating the provisions of this section shall be guilty of a Class H felony.

(k) Official Use Exemption. – This section shall not prohibit law enforcement officers and members of any branch of the Armed Forces of the United States, not otherwise prohibited under federal law, from possessing or using firearms for official use only.

(l) Nothing in this section is intended to limit the discretion of the court in granting additional relief as provided in other sections of this Chapter.

# NORTH DAKOTA

Summary: Relinquishment order authorized in qualified temporary and permanent DVPOs.

Highlighted Provisions:

**N.D. Cent. Code § 14-07.1-03(2)(d)**

**14-07.1-03. Temporary protection order - Copy to law enforcement agency.**

...

2.An ex parte temporary protection order may include:

...

d. Requiring the respondent to surrender for safekeeping any firearm or other specified dangerous weapon, as defined in section 12.1-01-04, in the respondent's immediate possession or control or subject to the respondent's immediate control, if the court has probable cause to believe that the respondent is likely to use, display, or threaten to use the firearm or other dangerous weapon in any further acts of violence. If so ordered, the respondent shall surrender the firearm or other dangerous weapon to the sheriff, or the sheriff's designee, of the county in which the respondent resides or the chief of police, or the chief's designee, of the city in which the respondent resides

**N.D. Cent. Code § 14-07.1-02(4)(g)**

**14-07.1-02. Domestic violence protection order.**

...

4.Upon a showing of actual or imminent domestic violence, the court may enter a protection order after due notice and full hearing. The relief provided by the court may include any or all of the following:

...

g. Requiring the respondent to surrender for safekeeping any firearm or other specified dangerous weapon, as defined in section 12.1-01-04, in the respondent's immediate possession or control or subject to the respondent's immediate control, if the court has probable cause to believe that the respondent is likely to use, display, or threaten to use the firearm or other dangerous weapon in any further acts of violence. If so ordered, the respondent shall surrender the firearm or other dangerous weapon to the sheriff, or the sheriff's designee, of the county in which the respondent resides or to the chief of police, or

the chief's designee, of the city in which the respondent resides in the manner and at the time and place determined by that law enforcement officer. If the firearm or other dangerous weapon is not surrendered, the law enforcement officer may arrest the respondent pursuant to section 14-07.1-11 and take possession of the firearm or other dangerous weapon.

# OREGON

Summary: Relinquishment order required in qualifying DVPOs and upon conviction for qualifying crimes of domestic violence.

Highlighted Provisions:

## Civil DVPOs

Or. Rev. Statutes § 166.256

(1)

(a) When a respondent becomes subject to an order described in ORS 166.255 (1)(a) prohibiting the respondent from possessing firearms or ammunition, the court shall:

(A) Indicate in the order that the respondent is prohibited from possessing firearms and ammunition under ORS 166.250 and 166.255 while the order is in effect.

(B) Ensure that the respondent is subject to an additional order:

(i) Requiring the respondent to transfer all firearms and ammunition in the respondent's possession in accordance with subsection (2) of this section; and

(ii) Requiring the respondent to file a declaration as described in subsection (4) of this section.

(b) If the respondent becomes subject to the order while the respondent is present in court, the court shall:

(A) Inform the respondent, orally and in writing, that the respondent is prohibited from possessing firearms and ammunition;

(B) Order in writing that the respondent transfer all firearms and ammunition in the respondent's possession in accordance with subsection (2) of this section; and

(C) Order that the respondent file a declaration as described in subsection (4) of this section.

(2)

(a) Within 24 hours of becoming subject to the court order under subsection (1)(a)(B) of this section or receiving the court order under subsection (1)(b)(B) of this section, the respondent shall transfer all firearms and ammunition in the respondent's possession to a local law enforcement agency, to a gun dealer as defined in ORS 166.412 or to a third party who does not reside with the respondent, and shall obtain a proof of transfer under paragraph (b) of

this subsection. A transfer to a third party under this subsection must be in accordance with ORS 166.435, except that the criminal background check exceptions in ORS 166.435 (4) do not apply.

(b) A law enforcement agency, gun dealer or third party receiving a firearm or ammunition pursuant to this subsection shall issue to the respondent a written proof of transfer. The proof of transfer must include the respondent's name, the date of transfer and the serial number, make and model of each transferred firearm. A proof of transfer issued by a third party must also include the unique approval number from the Department of State Police from the criminal background check conducted under ORS 166.435.

(c) A respondent transferring a firearm or ammunition to a third party under this subsection shall additionally obtain from the third party a declaration under penalty of perjury confirming receipt of the firearm or ammunition and attesting that:

(A) The third party understands that the respondent is prohibited from possessing firearms and ammunition; and

(B) The third party is subject to criminal penalties if the third party allows the respondent access to the firearm or ammunition during the prohibition.

(3)

(a) A law enforcement agency may accept a firearm or ammunition transferred under this section.

(b) A gun dealer may purchase or may accept for storage a firearm or ammunition transferred under this section.

(4)

(a) Within two judicial days of becoming subject to the court order under subsection (1)(a)(B) of this section or receiving the court order under subsection (1)(b)(B) of this section, the respondent shall file with the court a declaration under penalty of perjury attesting that:

(A) All firearms and ammunition in the respondent's possession have been transferred under subsection (2) of this section to:

(i) A law enforcement agency;

(ii) A gun dealer; or

(iii) A third party;

(B) The respondent was not in possession of any firearms at the time of the court's order and continues to not possess any firearms; or

(C) The respondent is asserting the respondent's constitutional right against self-incrimination.

(b) The respondent shall file with the declaration a copy of the proof of transfer, if applicable, and a copy of the third party declaration, if applicable.

(5) The respondent shall concurrently file with the district attorney copies of the declaration, proof of transfer and third party declaration filed with the court under subsection (4) of this section.

(6) A respondent in possession of a firearm or ammunition in violation of ORS 166.255 (1)(a) may not be prosecuted under ORS 166.250 if:

- (a) The respondent is in possession of a court order described in subsection (1)(a)(B) or (1)(b)(B) of this section that went into effect or was issued within the previous 24 hours;
- (b) The firearm is unloaded; and
- (c) The respondent is transporting the firearm or ammunition to a law enforcement agency, gun dealer or third party for transfer in accordance with subsection (2) of this section.

(7) Upon the expiration or termination of the order described in ORS 166.255 (1)(a), at the request of the respondent:

- (a) A law enforcement agency shall return any stored firearms and ammunition to the respondent in accordance with ORS 166.257.
- (b) A gun dealer shall return any stored firearms and ammunition to the respondent after performing a criminal background check as defined in ORS 166.432 to confirm that the respondent is not prohibited from possessing a firearm or ammunition under state or federal law.
- (c) A third party shall return any stored firearms and ammunition to the respondent only after requesting a criminal background check in accordance with ORS 166.435, except that the criminal background check exceptions in ORS 166.435 (4) do not apply.

(8) If the respondent does not file a declaration described in subsection (4) of this section, the district attorney may commence contempt proceedings under ORS 33.015 to 33.155. [2019 c.201 §4]

### **Or. Rev. Statutes § 166.257**

(1) Upon receiving a request to return a firearm or ammunition relinquished to a law enforcement agency pursuant to ORS 166.256, the law enforcement agency shall:

- (a) Notify the Department of Justice of the return request for the purposes of notifying the petitioner of the order; and
- (b) Hold the firearm or ammunition for 72 hours after receiving the request.

(2) Prior to returning the firearm or ammunition, the law enforcement agency shall:

- (a) Confirm that the person to whom the law enforcement agency will return the firearm or ammunition is the lawful owner of the firearm or ammunition, or a person with a possessory right to the firearm or ammunition; and
- (b) Perform a criminal background check as defined in ORS 166.432 to confirm that the person is not prohibited from possessing a firearm or ammunition under state or federal law.

## **Criminal convictions**

### **Or. Rev. Stat. § 166.259**

(1) When a person is convicted of an offense described in ORS 166.255 (1)(b) [MCDV] or (c) [stalking], the court shall, at the time of conviction:

- (a) Indicate in the judgment of conviction that the person is prohibited from possessing firearms and ammunition under ORS 166.250 and 166.255;
- (b) Inform the person, orally and in writing, that the person is prohibited from possessing firearms and ammunition;
- (c) Order in writing that the person transfer all firearms and ammunition in the person's possession in accordance with subsection (2) of this section; and
- (d) Order that the person file a declaration as described in subsection (4) of this section.

(2)

(a) Within 24 hours of the court's order under subsection (1) of this section, the person shall transfer all firearms and ammunition in the person's possession to a local law enforcement agency, to a gun dealer as defined in ORS 166.412 or to a third party who does not reside with the person, and shall obtain a proof of transfer under paragraph (b) of this subsection. A transfer to a third party under this subsection must be in accordance with ORS 166.435, except that the criminal background check exceptions in ORS 166.435 (4) do not apply.

(b) A law enforcement agency, gun dealer or third party receiving a firearm or ammunition pursuant to this subsection shall issue to the person a written proof of transfer. The proof of transfer must include the person's name, the date of transfer and the serial number, make and model of each transferred firearm. A proof of transfer issued by a third party must also include the unique approval number from the Department of State Police from the criminal background check conducted under ORS 166.435.

(c) A person transferring a firearm or ammunition to a third party under this subsection shall additionally obtain from the third party a declaration under penalty of perjury confirming receipt of the firearm or ammunition and attesting that:

- (A) The third party understands that the person is prohibited from possessing firearms and ammunition; and
- (B) The third party is subject to criminal penalties if the third party allows the person access to the firearm or ammunition during the prohibition.

(3)

(a) A law enforcement agency may accept a firearm or ammunition transferred under this section.

(b) A gun dealer may purchase or may accept for storage a firearm or ammunition transferred under this section.

(4)

(a) Within two judicial days of the court's order under subsection (1) of this section, the person shall file with the court a declaration under penalty of perjury attesting that:

(A) All firearms and ammunition in the person's possession have been transferred under subsection (2) of this section to:

(i) A law enforcement agency;

(ii) A gun dealer; or

(iii) A third party;

(B) The person was not in possession of any firearms at the time of the court's order and continues to not possess any firearms; or

(C) The person is asserting the person's constitutional right against self-incrimination.

(b) The person shall file with the declaration a copy of the proof of transfer, if applicable, and a copy of the third party declaration, if applicable.

(5) The person shall concurrently file with the district attorney copies of the declaration, proof of transfer and third party declaration filed with the court under subsection (4) of this section.

(6) A person in possession of a firearm or ammunition in violation of ORS 166.255 (1)(b) or (c) may not be prosecuted under ORS 166.250 if:

(a) The person is in possession of a court order described in subsection (1) of this section issued within the previous 24 hours;

(b) The firearm is unloaded; and

(c) The person is transporting the firearm or ammunition to a law enforcement agency, gun dealer or third party for transfer in accordance with subsection (2) of this section.

(7) If the person does not file the declaration required under subsection (4) of this section, the district attorney may commence contempt proceedings under ORS 33.015 to 33.155.



# PENNSYLVANIA

Summary: Relinquishment order authorized in qualifying DVPO and required upon conviction for certain crimes of domestic violence

Highlighted Provisions:

## Civil DVPOs

### **23 Pa. Cons. Stat. Ann. § 6108(7)-(7.1)**

§ 6108. Relief.

(a) General rule.--Subject to subsection (a.1), the court may grant any protection order or approve any consent agreement to bring about a cessation of abuse of the plaintiff or minor children. The order or agreement may include:

...

(7) Prohibiting the defendant from acquiring or possessing any firearm for the duration of the order, ordering the defendant to temporarily relinquish to the sheriff or the appropriate law enforcement agency any firearms under the defendant's possession or control, and requiring the defendant to relinquish to the sheriff or the appropriate law enforcement agency any firearm license issued under section 6108.3 (relating to relinquishment to third party for safekeeping) or 18 Pa.C.S. § 6106 (relating to firearms not to be carried without a license) or 6109 (relating to licenses) the defendant may possess. The court may also order the defendant to relinquish the defendant's other weapons or ammunition that have been used or been threatened to be used in an incident of abuse against the plaintiff or the minor children. A copy of the court's order shall be transmitted to the chief or head of the appropriate law enforcement agency and to the sheriff of the county of which the defendant is a resident. When relinquishment is ordered, the following shall apply:

(i)

(A) The court's order shall require the defendant to relinquish such firearms, other weapons, ammunition and any firearm license pursuant to the provisions of this chapter within 24 hours of service of a temporary order or the entry of a final order or the close of the next business day as necessary by closure of the sheriffs' offices, except for cause shown at the hearing, in which case the court shall specify the time for relinquishment of any or all of the defendant's firearms.

(B) A defendant subject to a temporary order requiring the relinquishment of firearms, other weapons or ammunition shall, in lieu of relinquishing specific firearms, other

weapons or ammunition which cannot reasonably be retrieved within the time for relinquishment in clause (A) due to their current location, provide the sheriff or the appropriate law enforcement agency with an affidavit listing the firearms, other weapons or ammunition and their current location. If the defendant, within the time for relinquishment in clause (A), fails to provide the affidavit or fails to relinquish, pursuant to this chapter, any firearms, other weapons or ammunition ordered to be relinquished which are not specified in the affidavit, the sheriff or the appropriate law enforcement agency shall, at a minimum, provide immediate notice to the court, the plaintiff and appropriate law enforcement authorities. The defendant shall not possess any firearms, other weapons or ammunition specifically listed in the affidavit provided to the sheriff or the appropriate law enforcement agency pursuant to this clause for the duration of the temporary order.

(C) As used in this subparagraph, the term “cause” shall be limited to facts relating to the inability of the defendant to retrieve a specific firearm within 24 hours due to the current location of the firearm.

(ii) The court’s order shall contain a list of any firearm, other weapon or ammunition ordered relinquished. Upon the entry of a final order, the defendant shall inform the court in what manner the defendant is going to relinquish any firearm, other weapon or ammunition ordered relinquished. Relinquishment may occur pursuant to section 6108.2 (relating to relinquishment for consignment sale, lawful transfer or safekeeping) or 6108.3 or to the sheriff or the appropriate law enforcement agency pursuant to this paragraph. Where the sheriff or the appropriate law enforcement agency is designated, the sheriff or the appropriate law enforcement agency shall secure custody of the defendant’s firearms, other weapons or ammunition and any firearm license listed in the court’s order for the duration of the order or until otherwise directed by court order. In securing custody of the defendant’s relinquished firearms, the sheriff or the appropriate law enforcement agency shall comply with 18 Pa.C.S. § 6105(f)(4) (relating to persons not to possess, use, manufacture, control, sell or transfer firearms). In securing custody of the defendant’s other weapons and ammunition, the sheriff or the appropriate law enforcement agency shall provide the defendant with a signed and dated written receipt which shall include a detailed description of the other weapon or ammunition and its condition. The court shall inform the defendant that firearms, other weapons or ammunition shall be deemed abandoned when the conditions under 18 Pa.C.S. § 6128(a) (relating to abandonment of firearms, weapons or ammunition) are satisfied and may then be disposed of in accordance with 18 Pa.C.S. § 6128.

(iii) The sheriff or the appropriate law enforcement agency shall provide the plaintiff with the name of the person to which any firearm, other weapon or ammunition was relinquished.

(iv) Unless the defendant has complied with subparagraph (i)(B) or section 6108.2 or 6108.3, if the defendant fails to relinquish any firearm, other weapon, ammunition or firearm license within 24 hours or upon the close of the next business day due to closure

of sheriffs' or appropriate law enforcement agencies' offices or within the time ordered by the court upon cause being shown at the hearing, the sheriff or the appropriate law enforcement agency shall, at a minimum, provide immediate notice to the court, the plaintiff and appropriate law enforcement agencies, as appropriate.

(v) Any portion of any order or any petition or other paper which includes a list of any firearm, other weapon or ammunition ordered relinquished shall be kept in the files of the court as a permanent record thereof and withheld from public inspection except:

- (A) upon an order of the court granted upon cause shown;
- (B) as necessary, by law enforcement and court personnel; or
- (C) after redaction of information listing any firearm, other weapon or ammunition.

(vi) As used in this paragraph, the term "defendant's firearms" shall, if the defendant is a licensed firearms dealer, only include firearms in the defendant's personal firearms collection pursuant to 27 CFR § 478.125a (relating to personal firearms collection).

(7.1) If the defendant is a licensed firearms dealer, ordering the defendant to follow such restrictions as the court may require concerning the conduct of his business, which may include ordering the defendant to relinquish any Federal or State license for the sale, manufacture or importation of firearms as well as firearms in the defendant's business inventory. In restricting the defendant pursuant to this paragraph, the court shall make a reasonable effort to preserve the financial assets of the defendant's business while fulfilling the goals of this chapter.

## **23 Pa. Cons. Stat. Ann. § 6108.2**

### **§ 6108.2. Relinquishment for consignment sale, lawful transfer or safekeeping.**

(a) **General rule.**--Notwithstanding any other provision of law, a defendant who is the subject of a final protection from abuse order, which order provides for the relinquishment of firearms, other weapons or ammunition during the period of time the order is in effect, may, within the time frame specified in the order and in lieu of relinquishment to the sheriff or the appropriate law enforcement agency, relinquish to a dealer licensed pursuant to 18 Pa.C.S. § 6113 (relating to licensing of dealers) any firearms, other weapons or ammunition for consignment sale, lawful transfer or safekeeping. The dealer may charge the defendant a reasonable fee for accepting relinquishment and for storage of any firearms, other weapons or ammunition.

(b) **Affidavit.**--A defendant relinquishing firearms, other weapons or ammunition to a dealer pursuant to subsection (a) shall obtain an affidavit from the dealer on a form prescribed by the Pennsylvania State Police which shall include, at a minimum, the following:

- (1) The caption of the case in which the protection from abuse order was issued.
- (2) The name, address, date of birth and Social Security number of the defendant.
- (3) A list of the firearms, other weapons or ammunition, including, if applicable, the manufacturer, model and serial number.
- (4) The name and license number of the dealer licensed pursuant to 18 Pa.C.S. § 6113 and the address of the licensed premises.

(5) An acknowledgment that the firearms, other weapons or ammunition will not be returned to the defendant or sold or transferred to a person the dealer knows is a member of the defendant's household, while the defendant is the subject of an active protection from abuse order pursuant to section 6108, which order provides for the relinquishment of the firearm, other weapon or ammunition being returned, sold or transferred.

(6) An acknowledgment that the firearms, other weapons or ammunition, if sold or transferred, will be sold or lawfully transferred in compliance with 18 Pa.C.S. Ch. 61 (relating to firearms and other dangerous articles).

(c) **Failure to provide affidavit.**--A defendant relinquishing firearms, other weapons or ammunition to a dealer pursuant to subsection (a) shall, within the time frame specified in the order for relinquishing firearms, other weapons or ammunition, provide to the sheriff the affidavit obtained pursuant to subsection (b) and relinquish to the sheriff any firearms, other weapons or ammunition ordered to be relinquished which are not specified in the affidavit, in an affidavit provided in accordance with section 6108(a)(7)(i)(B) (relating to relief) or in an acknowledgment of receipt from a third party provided to the sheriff pursuant to section 6108.3 (relating to relinquishment to third party for safekeeping). If the defendant fails to comply with this subsection, the sheriff shall, at a minimum, provide immediate notice to the court, the plaintiff and appropriate law enforcement agencies.

(d) **Form.**--The Pennsylvania State Police shall develop and make available a form to be used by dealers to accept possession of firearms, other weapons and ammunition for consignment sale, lawful transfer or safekeeping pursuant to this section.

(e) **Transfer upon entry of final order.**--Upon entry of a final protection from abuse order issued pursuant to section 6108, a defendant who had relinquished firearms, other weapons or ammunition to the sheriff pursuant to a temporary order may request that the firearms, other weapons or ammunition be relinquished to a dealer for consignment sale, lawful transfer or safekeeping pursuant to this section. If the defendant can identify a licensed dealer willing to accept the firearms, other weapons or ammunition in compliance with this section, the court shall order the sheriff to transport the firearms, other weapons or ammunition to the licensed dealer at no cost to the defendant or the licensed dealer.

(f) **Nondisclosure.**--The affidavit obtained under subsection (c) shall not be subject to access under the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law.

(g) **Definitions.**--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Safekeeping.” The secure custody of firearms, other weapons or ammunition ordered relinquished by an active protection from abuse order.

“Sale or lawful transfer.” Any sale or transfer to a person other than the defendant or a member of the defendant's household which is conducted in accordance with 18 Pa.C.S. Ch. 61 (relating to firearms and other dangerous articles).

**23 Pa. Cons. Stat. Ann. § 6108.3**

**§ 6108.3. Relinquishment to third party for safekeeping.**

(a) **General rule.**--A defendant who is the subject of a protection from abuse order, which order provides for the relinquishment of firearms, other weapons or ammunition during the period of time the order is in effect, may, within the time frame specified in the order and in lieu of relinquishment to the sheriff, relinquish any firearms, other weapons or ammunition for safekeeping to a third party who meets the requirements of a third party under subsection (b) (3).

(b) **Transfer to third party.**--

(1) A defendant wishing to relinquish firearms, other weapons or ammunition to a third party pursuant to subsection (a) shall, within the time frame specified in the order for relinquishing firearms, other weapons and ammunition, report to the sheriff's office in the county where the order was entered along with the third party.

(2) Upon determination by the sheriff that the third party is not prohibited from possessing firearms, other weapons or ammunition pursuant to any Federal or State law and after the defendant and third party have executed the affidavits required under paragraph (3), the sheriff shall issue a safekeeping permit to the third party, which shall include, at a minimum, a list of the firearms, other weapons and ammunition which will be relinquished to the third party. The permit shall be issued at no cost to the third party or defendant. The permit shall require the third party to possess the defendant's firearms, other weapons and ammunition until the time that:

- (i) the sheriff revokes the safekeeping permit pursuant to subsection (c)(1); or
- (ii) the sheriff accepts return of the safekeeping permit pursuant to subsection (d).

(3)

(i) A defendant wishing to relinquish firearms, other weapons or ammunition to a third party pursuant to subsection (a) shall, in the presence of the sheriff or the sheriff's designee, execute an affidavit on a form prescribed by the Pennsylvania State Police which shall include, at a minimum, the following:

- (A) The caption of the case in which the protection from abuse order was issued.
- (B) The name, address, date of birth and the Social Security number of the defendant.
- (C) The name, address and date of birth of the third party.
- (D) A list of the firearms, other weapons and ammunition which will be relinquished to the third party, including, if applicable, the manufacturer, model and serial number.
- (E) An acknowledgment that the defendant will not take possession of any firearm, other weapon or ammunition relinquished to the third party until the sheriff accepts return of the safekeeping permit pursuant to subsection (d).
- (F) A plain-language summary of 18 Pa.C.S. § 6105(a.1)(2) and (c)(6) (relating to persons not to possess, use, manufacture, control, sell or transfer firearms).

(G) A plain-language summary of 18 U.S.C. § 922(g)(8) (relating to unlawful acts).

(ii) A third party who will be accepting possession of firearms, other weapons and ammunition pursuant to subsection (a) shall, in the presence of the sheriff or the sheriff's designee, execute an affidavit on a form prescribed by the Pennsylvania State Police which shall include, at a minimum, the following:

(A) The caption of the case in which the protection from abuse order was issued.

(B) The name, address and date of birth of the defendant.

(C) The name, address, date of birth and the Social Security number of the third party.

(D) A list of the firearms, other weapons and ammunition which will be relinquished to the third party, including, if applicable, the manufacturer, model and serial number.

(E) An acknowledgment that no firearm, other weapon or ammunition relinquished to the third party will be returned to the defendant until the sheriff accepts return of the safekeeping permit pursuant to subsection (d).

(F) A plain-language summary of 18 Pa.C.S. §§ 6105(a.1)(5) and (c)(6), 6111(c) (relating to sale or transfer of firearms) and 6115 (relating to loans on, or lending or giving firearms prohibited).

(G) A plain-language summary of this section.

(H) An acknowledgment that the third party is not prohibited from possessing firearms, other weapons or ammunition pursuant to any Federal or State law.

(I) An acknowledgment that the third party is not subject to an active protection from abuse order.

(J) An acknowledgment that the defendant has never been the subject of a protection from abuse order issued on behalf of the third party.

(K) An acknowledgment that any firearms, other weapons and ammunition relinquished to the third party will be stored using a locking device as defined in paragraph (1) of the definition of "locking device" in 18 Pa.C.S. § 6142(f) (relating to locking device for firearms) or in a secure location to which the defendant does not have access.

(L) A detailed description of the third party liability pursuant to this section relating to civil liability.

(M) An acknowledgment that the third party shall inform the sheriff of any change of address for the third party within seven days of the change of address.

(N) An acknowledgment that the third party and the defendant are not family or household members.

(O) An acknowledgment that the third party is one of the following:

(I) An attorney at law, and further acknowledgment that the attorney at law and the defendant are in an attorney-client relationship. The attorney at law and the defendant shall sign a written agreement stating in substantially the following form: "Firearm(s) can be relinquished to the attorney at law upon the express, written condition that

firearm(s) will be returned to the defendant, or otherwise transferred, only if in strict conformance with applicable law.”

(II) A commercial armory, and further acknowledgment that the owner or operator of the commercial armory is not a family or household member of the defendant; the commercial armory is a secure storage facility designed to store firearms; the commercial armory possesses all Federal and State licenses to store firearms; and a form stating substantially the following: “Firearms can be relinquished to the commercial armory upon the express, written condition that firearm(s) will be returned, or transferred, to the defendant only in strict conformance with applicable law.”

(4) The defendant shall, within the time frame specified in the order and in lieu of relinquishment to the sheriff, relinquish the firearms, other weapons and ammunition specified in the affidavits provided to the sheriff pursuant to paragraph (3) to the third party who has been issued a safekeeping permit pursuant to paragraph (2). Upon relinquishment of the firearms to the third party, the third party shall sign an acknowledgment of receipt on a form prescribed by the Pennsylvania State Police, which shall include, at a minimum, an acknowledgment that the firearms were relinquished to the third party within the time frame specified in the order.

(5) Within 24 hours of the issuance of the safekeeping permit issued to the third party pursuant to paragraph (2) or by close of the next business day as necessary due to the closure of the sheriff’s office, the defendant shall return the signed acknowledgment of receipt required under paragraph (4) to the sheriff in the county where the order was entered.

(6) If the defendant fails to provide the acknowledgment of receipt to the sheriff as required under paragraph (5), an affidavit prepared in accordance with section 6108(a)(7)(i)(B) (relating to relief), an affidavit under section 6108.2 (relating to relinquishment for consignment sale, lawful transfer or safekeeping) or fails to relinquish any firearms, other weapons or ammunition, the sheriff shall, at a minimum, provide immediate notice to the court, the plaintiff and appropriate law enforcement agencies.

**(c) Revocation of safekeeping permit.--**

(1) The sheriff shall revoke a third party’s safekeeping permit and require the third party to relinquish to the sheriff any firearms, other weapons or ammunition which were relinquished to the third party by a defendant pursuant to subsection (a) upon determining or being notified that any of the following apply:

(i) A protection from abuse order has been entered against the third party.

(ii) The third party is prohibited from possessing firearms, other weapons or ammunition pursuant to any Federal or State law.

(iii) The defendant has been convicted of a violation of 18 Pa.C.S. Ch. 61 (relating to firearms and other dangerous articles) or any other offense involving the use of a firearm.

(iv) The defendant has been held in indirect criminal contempt for violating a provision

of the protection from abuse order consistent with section 6108(a)(1), (2), (6), (7) or (9) (relating to relief).

(2) Upon revocation of a safekeeping permit, the sheriff shall seize the safekeeping permit and all of the defendant's firearms, other weapons and ammunition which were relinquished to the third party. If revocation of the safekeeping permit was:

(i) Required pursuant to paragraph (1)(i) or (ii), the sheriff shall notify the defendant that the firearms, other weapons and ammunition which were relinquished to the third party are in the sheriff's possession and that the defendant may report to the sheriff's office in order to relinquish the firearms, other weapons and ammunition to a subsequent third party pursuant to this section or to a licensed dealer pursuant to section 6108.2.

(ii) Required pursuant to paragraph (1)(iii) or (iv), the sheriff shall maintain possession of the firearms, other weapons and ammunition until the defendant is no longer prohibited from possessing firearms, other weapons and ammunition pursuant to any Federal or State law unless:

(A) the defendant has the firearms, other weapons and ammunition relinquished to a licensed dealer pursuant to section 6108.2; or

(B) the sheriff is directed to relinquish the firearms, other weapons and ammunition pursuant to a court order.

**(d) Return of safekeeping permit.--**

(1) Following expiration of a protection from abuse order, which order provided for the relinquishment of firearms, other weapons or ammunition, the defendant and the third party shall report to the sheriff's office to return the safekeeping permit. Upon a determination by the sheriff that the defendant is:

(i) Not prohibited from possessing firearms, other weapons and ammunition, the sheriff shall accept the return of the safekeeping permit, and the third party shall relinquish to the defendant all of the defendant's firearms, other weapons and ammunition which were relinquished to the third party pursuant to this section.

(ii) Prohibited from possessing a firearm, other weapon or ammunition pursuant to any Federal or State law, the sheriff shall accept return of the permit and seize from the third party all of the defendant's firearms, other weapons and ammunition which were relinquished to the third party pursuant to this section. The sheriff shall return to the defendant any firearm, other weapon or ammunition which the defendant is lawfully entitled to possess.

(2) Upon issuance of a court order pursuant to 18 Pa.C.S. §§ 6105(f)(2) or 6108.1(b) (relating to return of relinquished firearms, other weapons and ammunition and additional relief) which modifies a valid protection from abuse order by allowing the defendant to take possession of a firearm, other weapon or ammunition that had previously been ordered relinquished, the defendant and the third party shall report to the sheriff's office to return the safekeeping permit. The sheriff shall proceed as directed by the court order.



(3) If a third party wishes to relinquish the defendant's firearms, other weapons and ammunition prior to return of the safekeeping permit pursuant to paragraph (1), the sheriff shall accept return of the safekeeping permit and shall seize all of the defendant's firearms, other weapons and ammunition from the third party. The sheriff shall notify the defendant that the firearms, other weapons and ammunition which were relinquished to the third party are in the sheriff's possession and that the defendant may relinquish the firearms, other weapons and ammunition to a subsequent third party pursuant to this section or to a licensed dealer pursuant to section 6108.2.

(e) **Civil liability.**--A third party who intentionally or knowingly violates any of the provisions of this section shall, in addition to any other penalty prescribed in this chapter or 18 Pa.C.S. Ch. 61, be civilly liable to any person for any damages caused thereby and, in addition, shall be liable to any person for punitive damages in an amount not to exceed \$5,000, and the court shall award a prevailing plaintiff a reasonable attorney fee as part of the costs.

(f) **Forms.**--The Pennsylvania State Police shall develop and make available:

- (1) Forms to be used by sheriffs to issue safekeeping permits pursuant to subsection (b)(2).
- (2) Affidavit forms and receipt forms to be used by defendants and third parties as required under subsection (b)(3) and (4).

(g) **Transfer upon final entry.**--A defendant who has previously relinquished firearms, other weapons or ammunition to the sheriff pursuant to a temporary order shall be permitted to have the firearms, other weapons and ammunition relinquished to a third party pursuant to this section following entry of a final protection from abuse order, which order provides for the relinquishment of firearms, other weapons or ammunition during the period of time the order is in effect.

(h) **Nondisclosure.**--All copies of the safekeeping permit issued under subsection (b)(2) retained by the sheriff and the affidavits and forms obtained under subsection (b)(3) and (4) shall not be subject to access under the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law.

(i) **Definitions.**--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Safekeeping.” The secure custody of firearms, other weapons or ammunition which were ordered relinquished by an active protection from abuse order.

“Third party.” A person, other than the defendant, who:

- (1) Is not a member of the defendant's household.
- (2) Is not prohibited from possessing firearms pursuant to any Federal or State law.

### **23 Pa. Cons. Stat. Ann. § 6108.1**

#### **§ 6108.1. Return of relinquished firearms, other weapons and ammunition and additional relief.**

(a) **General rule.**--Any court order requiring the relinquishment of firearms, other weapons or ammunition shall provide for the return of the relinquished firearms, other weapons or ammunition to the defendant upon expiration of the order or dismissal of a petition for a protection from abuse order. The defendant may take custody of the firearms, other weapons and ammunition provided that the defendant is otherwise eligible to lawfully possess the relinquished items. The defendant shall not be required to pay any fees, costs or charges associated with the returns, whether those fees, costs or charges are imposed by the Pennsylvania State Police, any local law enforcement agency or any other entity, including a licensed importer, licensed manufacturer or licensed dealer in order to secure return of the relinquished firearms, other weapons or ammunition. The sheriff's or the appropriate law enforcement agency's office shall maintain a weapons return form that the defendant may fill out and return to the office once a temporary or final protection from abuse order has been dismissed or expires.

(a.1) **Conditions for return.**--The following conditions must be satisfied prior to the firearms, other weapons or ammunition being returned to the defendant:

(1) The firearms, other weapons or ammunition relinquished must not be evidence of a crime.

(2) The defendant or owner must not be otherwise prohibited by applicable Federal or State law, or another condition, including, but not limited to, bail, from taking possession of the firearms, other weapons or ammunition seized.

(3) The defendant or owner must have been given a clearance by the Pennsylvania State Police Instant Check System Unit or through the National Instant Criminal Background Check System (NICS), requested by the sheriff's office.

(a.2) **Notice to plaintiff.**--The plaintiff of the protection from abuse order shall be notified of the defendant's request to return the firearms, other weapons or ammunition.

(a.3) **Petition for return.**--If there is a determination under subsection (a.1) that the defendant is ineligible to regain possession of the firearms, other weapons or ammunition, the defendant or owner may file a petition appealing that determination and seeking their return. A copy of the petition must be served upon the plaintiff, sheriff and the district attorney.

(a.4) **Abandonment.**--Any firearms, other weapons or ammunition shall be deemed abandoned when the conditions under 18 Pa.C.S. § 6128(a) (relating to abandonment of firearms, weapons or ammunition) are satisfied and may then be disposed of in accordance with 18 Pa.C.S. § 6128.

(b) **Modification of court's order providing for return of relinquished firearm, other weapon or ammunition.**--Any other person may petition the court to allow for the return of that other person's firearms, other weapons and ammunition prior to the expiration of the court's order. The petition shall be served upon the plaintiff, and the plaintiff shall be given notice and an opportunity to be heard regarding that petition.

...

(c) **Modification of court’s order to provide for alternative means of relinquishing firearms, other weapons or ammunition.**--The defendant may petition the court for modification of the order to provide for an alternative means of relinquishment in accordance with this chapter. The petition shall be served upon the plaintiff, and the plaintiff shall have an opportunity to be heard at the hearing as provided in subsection (d). Where the court orders a modification pursuant to this subsection providing for alternative means of relinquishment, the sheriff shall proceed as directed by the court.

(d) **Hearing.**--Within ten business days of the filing of any petition under this section, a hearing shall be held before the court.

(e) **Definitions.**--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Other person.” Any person, except the defendant, who is the lawful owner of a firearm, other weapon or ammunition relinquished pursuant to this chapter.

“Safekeeping.” The secure custody of a firearm, other weapon or ammunition ordered relinquished by an active protection from abuse order.

## **18 Pa. Cons. Stat. Ann. § 6105.2**

### **§ 6105.2. Relinquishment of firearms and firearm licenses by convicted persons.**

(a) **Procedure.**--

(1) A person subject to a firearms disability pursuant to section 6105(c)(9) (relating to persons not to possess, use, manufacture, control, sell or transfer firearms shall relinquish any firearms under the person’s possession or control to the appropriate law enforcement agency of the municipality as described in subsection (b) or to a dealer as described in subsection (c).

(2) The court of conviction shall order the relinquishment, and the order shall be transmitted to the appropriate law enforcement agency of the municipality and to the sheriff of the county of which the person is a resident. The order shall contain a list of any firearm ordered relinquished.

(3) The person shall inform the court in what manner the person will relinquish the firearms.

(4) If the person is present in court at the time of the order, the person shall inform the court whether relinquishment will be made under subsection (b) or (c).

(b) **Relinquishment to law enforcement agency.**--

(1) Relinquishment to an appropriate law enforcement agency shall be made within a period not longer than 24 hours following conviction, except for cause shown, in which case the court shall specify the time for relinquishment of any or all of the person’s firearms.

(2) In securing custody of the person’s relinquished firearms, the law enforcement agency shall provide the person subject to the relinquishment order with a signed and dated written receipt, which shall include a detailed description of each firearm and its condition.

(3) As used in this subsection, the term “cause” shall be limited to facts relating to the inability of the person to retrieve a specific firearm within a period not longer than 24 hours due to the then-current location of the firearm.

**(c) Relinquishment to dealer.--**

(1) In lieu of relinquishment to the local law enforcement agency, the person subject to a court order may, within 24 hours or within the time ordered by the court upon cause being shown as in subsection (b), relinquish firearms to a dealer licensed pursuant to section 6113 (relating to licensing of dealers).

(2) The dealer may charge the person a reasonable fee for accepting relinquishment.

(3) The person shall obtain an affidavit from the dealer on a form prescribed by the Pennsylvania State Police, which shall include, at a minimum, the following:

(i) The caption of the case in which the person was convicted.

(ii) The name, address, date of birth and Social Security number of the person.

(iii) A list of the firearms, including the manufacturer, model and serial number.

(iv) The name and license number of the dealer licensed pursuant to section 6113 and the address of the licensed premises.

(v) An acknowledgment that the firearms will not be returned to the person, unless the person is no longer prohibited from possessing a firearm under Federal or State law, or sold or transferred to a person the dealer knows is a member of the defendant’s household.

(vi) An acknowledgment that the firearms, if transferred, will be transferred in compliance with this chapter.

(4) Any person relinquishing a firearm pursuant to this subsection shall, within the specified time frame, provide to the appropriate law enforcement agency or the sheriff’s office, or both, the affidavit required by this subsection and relinquish to the law enforcement agency any firearm ordered to be relinquished that is not specified in the affidavit.

**(d) Notice of noncompliance.--**

(1) If the person fails to relinquish any firearm within 24 hours or within the time ordered by the court upon cause being shown, the law enforcement agency shall, at a minimum, provide immediate notice to the court, the victim, the prosecutor and the sheriff.

(2) For purposes of this subsection, “victim” shall have the same meaning as “direct victim” in section 103 of the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act.

**(e) Alternate relinquishment to dealer.--**

(1) If the person relinquishes firearms to the appropriate law enforcement agency pursuant to subsection (b), the person may request that the appropriate law enforcement agency make one transfer of any such firearm to a dealer licensed pursuant to section 6113 within six months of relinquishment.

(2) If requesting a subsequent transfer, the person shall provide the appropriate law enforcement agency with the dealer affidavit described in subsection (c).

(3) The appropriate law enforcement agency shall make the transfer, if the person complies with this subsection, and may charge the person for any costs associated with making the transfer.

(f) **Recordkeeping.**--Any portion of an order or petition or other paper that includes a list of firearms ordered to be relinquished shall be kept in the files of the court as a permanent record and withheld from public inspection, except upon an order of the court granted upon cause shown, after redaction of information relating to the firearms, or, as necessary, by law enforcement and court personnel.

(g) **Relinquishment of licenses.**--

(1) A person convicted of a crime resulting in a firearm disability pursuant to section 6105(c)(9) shall also relinquish to the sheriff any firearm license issued under section 6106 (relating to firearms not to be carried without a license) or 6109 (relating to licenses) or 23 Pa.C.S. § 6108.3 (relating to relinquishment to third party for safekeeping).

(2) The provisions of subsections (a)(2) and (3), (b), (d) and (f) shall also apply to firearm licenses of the person.

(h) **Penalty.**--A person convicted of a crime resulting in a firearm disability pursuant to section 6105(c)(9) commits a misdemeanor of the second degree if the person intentionally or knowingly fails to relinquish a firearm or other weapon or ammunition to an appropriate law enforcement agency or a dealer in accordance with this section.

(i) **Definition.**--As used in this section, the term “firearm” means any weapon which is designed to or may readily be converted to expel any projectile by the action of an explosive or the frame or receiver of any such weapon.

# RHODE ISLAND

Summary: Relinquishment orders authorized in qualifying DVPOs and required upon conviction for certain crimes of domestic violence.

Highlighted Provisions:

## Civil DVPOs

### **R.I. Gen. Laws § 8-8.1-3(a)(4)-(k)**

#### **§ 8-8.1-3. Protective orders — Penalty — Jurisdiction.**

(a) A person suffering from domestic abuse may file a complaint in the district court requesting any order that will protect her or him from the abuse, including, but not limited to, the following:

...

(4) Ordering the defendant to surrender physical possession of all firearms in his or her possession, care, custody, or control and shall further order a person restrained not to purchase or receive, or attempt to purchase or receive, any firearms while the protective order is in effect. The defendant shall surrender the firearms within twenty-four (24) hours of notice of the protective order to the Rhode Island state police or local police department or to a federally licensed firearms dealer.

(i) A person ordered to surrender possession of any firearm(s) pursuant to this section shall, within seventy-two (72) hours after being served with the order, either:

(A) File with the court a receipt showing the firearm(s) was physically surrendered to the Rhode Island state police or local police department, or to a federally licensed firearm dealer; or

(B) Attest to the court that, at the time of the order, the person had no firearms in his or her immediate physical possession or control, or subject to his or her immediate physical possession or control, and that the person, at the time of the attestation, has no firearms in his or her immediate physical possession or control or subject to his or her immediate physical possession or control.

(ii) If a person restrained under this section transfers a firearm(s) to a federally licensed firearms dealer pursuant to this section, the person restrained under this section may instruct the federally licensed firearms dealer to sell the firearm(s) or to transfer ownership in accordance with state and federal law, to a qualified named individual

who is not a member of the person's dwelling house, who is not related to the person by blood, marriage, or relationship as defined by § 15-15-1(7), and who is not prohibited from possessing firearms under state or federal law. The owner of any firearm(s) sold shall receive any financial value received from its sale, less the cost associated with taking possession of, storing, and transferring of the firearm(s).

(iii) Every individual to whom possession of a firearm(s) is transferred pursuant to this subsection shall be prohibited from transferring or returning any firearm(s) to the person restrained under this section while the protective order remains in effect and shall be informed of this prohibition. Any knowing violation of this subsection is a felony that shall be punishable by a fine of not more than one thousand dollars (\$1,000), or by imprisonment for a term of not less than one year and not more than five (5) years, or both.

(iv) An individual to whom possession of a firearm(s) is transferred pursuant to this subsection shall return a firearm(s) to the person formerly restrained under this section only if the person formerly restrained under this section provides documentation issued by a court indicating that the restraining order issued pursuant to this section that prohibited the person from purchasing, carrying, transporting, or possessing firearms has expired and has not been extended.

(b) After notice to the respondent and after a hearing, which shall be held within fifteen (15) days of surrendering said firearms, the court, in addition to any other restrictions, may, for any protective order issued or renewed on or after July 1, 2017, continue the order of surrender, and shall further order a person restrained under this section not to purchase or receive, or attempt to purchase or receive, any firearms while the protective order is in effect.

(c) The district court shall provide a notice on all forms requesting a protective order that a person restrained under this section shall be ordered pursuant to § 11-47-5, to surrender possession or control of any firearms and not to purchase or receive, or attempt to purchase or receive, any firearms while the restraining order is in effect. The form shall further provide that any person who has surrendered their firearms shall be afforded a hearing within fifteen (15) days of surrendering their firearms.

(d) Any firearm surrendered in accordance with this section to the Rhode Island state police or local police department shall be returned to the person formerly restrained under this section upon their request when:

(1) The person formerly restrained under this section produces documentation issued by a court indicating that the restraining order issued pursuant to this section that prohibited the person from purchasing, carrying, transporting, or possessing firearms has expired and has not been extended; and

(2) The law enforcement agency in possession of the firearms determines that the person formerly restrained under this section is not otherwise prohibited from possessing a firearm under state or federal law.

(3) The person required to surrender his or her firearms pursuant to this section shall not be responsible for any costs of storage of any firearms surrendered pursuant to this section.

(e) The Rhode Island state police are authorized to develop rules and procedures pertaining to the storage and return of firearms surrendered to the Rhode Island state police or local police departments pursuant to this section. The Rhode Island state police may consult with the Rhode Island Police Chiefs' Association in developing rules and procedures.

(f) Nothing in this section shall be construed to limit, expand, or in any way modify orders issued under § 12-29-4 or § 15-5-19.

(g) Nothing in this section shall limit a defendant's right under existing law to petition the court at a later date for modification of the order.

(h) The court shall immediately notify the person suffering from domestic abuse whose complaint gave rise to the protective order and the law enforcement agency where the person restrained under this section resides of the hearing.

(i) The person suffering from domestic abuse, local law enforcement, and the person restrained under this section shall all have an opportunity to be present and to testify when the court considers the petition.

(j) At the hearing, the person restrained under this section shall have the burden of showing, by clear and convincing evidence, that, if his or her firearm rights were restored, he or she would not pose a danger to the person suffering from domestic abuse or to any other person.

(1) In determining whether to restore a person's firearm rights, the court shall examine all relevant evidence, including, but not limited to: the complaint seeking a protective order; the criminal record of the person restrained under this section; the mental health history of the person restrained under this section; any evidence that the person restrained under this section has, since being served with the order, engaged in violent or threatening behavior against the person suffering from domestic abuse or any other person.

(2) If the court determines, after a review of all relevant evidence and after all parties have had an opportunity to be heard, that the person restrained under this section would not pose a danger to the person suffering from domestic abuse or to any other person if his or her firearm rights were restored, then the court may grant the petition and modify the protective order and lift the firearm prohibition.

(3) If the court lifts a person's firearms prohibition pursuant to this subsection, the court shall issue the person written notice that he or she is no longer prohibited under this section from purchasing or possessing firearms while the protective order is in effect.

(k) The prohibition against possessing a firearm(s) due solely to the existence of a domestic violence restraining order issued under this section shall not apply with respect to sworn peace officers as defined in § 12-7-21 and active members of military service, including members of the reserve components thereof, who are required by law or departmental policy to carry departmental firearms while on duty or any person who is required by his or her employment to carry a firearm in the performance of his or her duties. Any individual exempted pursuant to this exception may possess a firearm only during the course of his or her employment. Any



firearm required for employment must be stored at the place of employment when not being possessed for employment use; all other firearm(s) must be surrendered in accordance with this section.

### **Criminal convictions**

#### **R.I. Gen. Laws § 12-29-5(d)(3), (g)-(j)**

#### **§ 12-29-5. Disposition of domestic violence cases.**

...

(d) The court shall determine, for every person who pleads nolo contendere to, or is convicted of, an offense involving domestic violence as enumerated in § 12-29-2, whether, as a result of the plea or conviction, the defendant is prohibited under § 11-47-5(a)(3) or § 11-47-5(a)(4) from purchasing, owning, carrying, transporting, or having in his or her possession any firearm.

...

(3) The person required to surrender his or her firearms pursuant to this section shall not be responsible for any costs of storage of any firearms surrendered pursuant to this section.

...

(g) The court shall indicate on every record of conviction or a plea of nolo contendere for an offense punishable as a felony involving domestic violence, as defined in § 12-29-2, that the defendant is prohibited under §§ 11-47-5 and 11-47-5.3 from purchasing, owning, carrying, transporting, or having in their possession, any firearm(s). The court shall inform the defendant of their prohibited status and shall order the defendant to surrender any firearm(s) in their ownership, possession, care, custody or control in accordance with § 11-47-5.3.

(h) The court shall indicate on every record of conviction or a plea of nolo contendere for an offense enumerated in § 11-47-5(a)(4) that the defendant is prohibited under §§ 11-47-5 and 11-47-5.4 from purchasing, owning, carrying, transporting, or having in their possession, any firearm(s). The court shall inform the defendant of their prohibited status, shall order the defendant to surrender any firearm(s) in their ownership, possession, care, custody or control, and shall ensure that surrender is made in accordance with § 11-47-5.4.

(i) No proceeds shall be provided to any person if the firearm(s) is destroyed pursuant to this section.

(j) Any firearm(s) used in the commission of the offense leading to the conviction pursuant to this section shall be forfeited to the state upon conviction.

# TENNESSEE

Summary: Relinquishment order required in qualifying DVPOs and upon conviction for certain crimes of domestic violence.

Highlighted Provisions:

## Civil DVPOs

### **Tenn. Code § 36-3-625**

(a) Upon issuance of an order of protection that fully complies with 18 U.S.C. § 922(g)(8), the order shall include on its face the following disclosures:

(1) That the respondent is required to dispose of the respondent's firearms by any lawful means, such as transferring possession to a third party who is not prohibited from possessing firearms, of all firearms the respondent possesses within forty-eight (48) hours of the issuance of the order;

(2) That the respondent is prohibited from possessing a firearm for so long as the order of protection or any successive order of protection is in effect, and may reassume possession of the dispossessed firearm at such time as the order expires or is otherwise no longer in effect; and

(3) Notice of the penalty for any violation of this section and § 39-17-1307(f).

(b) The court shall then order and instruct the respondent:

(1) To terminate the respondent's physical possession of the firearms in the respondent's possession by any lawful means, such as transferring possession to a third party who is not prohibited from possessing firearms, within forty-eight (48) hours;

(2) To complete and return the affidavit of firearm dispossession form created pursuant to subsection (e), which the court may provide the respondent or direct the respondent to the administrative office of the courts' website; and

(3) That if the respondent possesses firearms as business inventory or that are registered under the National Firearms Act ( 26 U.S.C. §§ 5801 et seq.), there are additional statutory provisions that may apply and shall include these additional provisions in the content of the order.

(c) Upon issuance of the order of protection, its provisions and date and time of issuance shall be transmitted to the sheriff and all local law enforcement agencies in the county where the respondent resides.

(d) When the respondent is lawfully dispossessed of firearms as required by this section, the respondent shall complete an affidavit of firearms dispossession form created pursuant to subsection (e) and return it to the court issuing the order of protection.

(e) The affidavit of firearms dispossession form shall be developed by the domestic violence state coordinating council, in consultation with the administrative office of the courts. Upon completion, the form shall be posted on the website of the administrative office of the courts where it can be copied by respondents or provided to them by the court or the court clerk.

(f) In determining what a lawful means of dispossession is:

(1) If the dispossession, including, but not limited to, the transfer of weapons registered under the National Firearms Act ( 26 U.S.C. §§ 5801 et seq.), that requires the approval of any state or federal agency prior to the transfer of the firearm, the respondent may comply with the dispossession requirement by having the firearm or firearms placed into a safe or similar container that is securely locked and to which the respondent does not have the combination, keys or other means of normal access;

(2) If the respondent is licensed as a federal firearms dealer or a responsible party under a federal firearms license, the determination of whether such an individual possesses firearms that constitute business inventory under the federal license shall be determined based upon the applicable federal statutes or the rules, regulations and official letters, rulings and publications of the bureau of alcohol, tobacco, firearms and explosives. The order of protection shall not require the surrender or transfer of the inventory if there are one (1) or more individuals who are responsible parties under the federal license who are not the respondent subject to the order of protection.

## **Criminal convictions**

### **Tenn. Code § 39-13-11(c)(6)**

(c)

...

(6) If a defendant pleads guilty or is found guilty of a domestic violence offense, as defined by this section or in § 40-14-109, the judge shall immediately order that the defendant:

(A) Terminate physical possession of all firearms in the defendant's possession within forty-eight (48) hours of the conviction by any lawful means, such as transferring possession to a third party who is not prohibited from possessing firearms; and

(B)

(i) Complete an affidavit of firearms dispossession form and return it to the court in which the defendant was convicted when all firearms have been lawfully dispossessed as required by subdivision (c)(6)(A);

(ii) The defendant may obtain the affidavit of dispossession from the court or court clerk or the defendant may be directed to obtain a copy from the website of the administrative office of the courts.

# VERMONT

Summary: Relinquishment order is authorized in emergency/ temporary and permanent DVPOs.

Highlighted Provisions:

## **15 V.S.A. § 1103. Requests for relief**

(a) Any family or household member may seek relief from abuse by another family or household member on behalf of himself or herself or his or her children by filing a complaint under this chapter. A minor 16 years of age or older, or a minor of any age who is in a dating relationship as defined in subdivision 1101(2) of this chapter, may file a complaint under this chapter seeking relief on his or her own behalf. The plaintiff shall submit an affidavit in support of the order.

(b) Except as provided in section 1104 of this title, the court shall grant relief only after notice to the defendant and a hearing. The plaintiff shall have the burden of proving abuse by a preponderance of the evidence.

(c)(1) The court shall make such orders as it deems necessary to protect the plaintiff or the children, or both, if the court finds that the defendant has abused the plaintiff, and:

(A) there is a danger of further abuse; or

(B) the defendant is currently incarcerated and has been convicted of one of the following: murder, attempted murder, kidnapping, domestic assault, aggravated domestic assault, sexual assault, aggravated sexual assault, stalking, aggravated stalking, lewd or lascivious conduct with a child, use of a child in a sexual performance, or consenting to a sexual performance.

(2) The court order may include the following:

(A) An order that the defendant refrain from abusing the plaintiff or his or her children, or both, and from interfering with their personal liberty, including restrictions on the defendant's ability to contact the plaintiff or the plaintiff's children, or both, in any way, whether directly, indirectly, or through a third party, with the purpose of making contact with the plaintiff, including in writing or by telephone, e-mail, or other electronic communication, and restrictions prohibiting the defendant from coming within a fixed distance of the plaintiff, the children, the plaintiff's residence, or other designated locations where the plaintiff or the plaintiff's children are likely to spend time.

(B) An order that the defendant immediately vacate the household and that the plaintiff be awarded sole possession of a residence.

(C) A temporary award of parental rights and responsibilities in accordance with the criteria in section 665 of this title.

(D) An order for parent-child contact under such conditions as are necessary to protect the child or the plaintiff, or both, from abuse. An order for parent-child contact may if necessary include conditions under which the plaintiff may deny parent-child contact pending further order of the court.

(E) If the court finds that the defendant has a duty to support the plaintiff, an order that the defendant pay the plaintiff's living expenses for a fixed period of time not to exceed three months.

(F) If the court finds that the defendant has a duty to support the child or children, a temporary order of child support pursuant to chapter 5 of this title, for a period not to exceed three months. A support order granted under this section may be extended if the relief from abuse proceeding is consolidated with an action for legal separation, divorce, or parentage.

(G) An order concerning the possession, care, and control of any animal owned, possessed, leased, kept, or held as a pet by either party or a minor child residing in the household.

(H) An order that the defendant return any personal documentation in his or her possession, including immigration documentation, birth certificates, and identification cards:

(i) pertaining to the plaintiff; or

(ii) pertaining to the plaintiff's children if relief is sought for the children or for good cause shown.

(d) In a hearing under this chapter, neither opinion evidence of nor evidence of the reputation of the plaintiff's sexual conduct shall be admitted. Evidence of prior sexual conduct of the plaintiff shall not be admitted; provided, however, where it bears on the credibility of the plaintiff or it is material to a fact at issue and its probative value outweighs its private character, the court may admit:

(1) evidence of the plaintiff's past sexual conduct with the defendant;

(2) evidence of specific instances of the plaintiff's sexual conduct showing the source of origin of semen, pregnancy, or disease;

(3) evidence of specific instances of the plaintiff's past false allegations of violations of 13 V.S.A. chapter 59 or 72.

(e) Relief shall be granted for a fixed period, at the expiration of which time the court may extend any order, upon motion of the plaintiff, for such additional time as it deems necessary to protect the plaintiff, the children, or both, from abuse. It is not necessary for the court to find that abuse has occurred during the pendency of the order to extend the terms of the order. The court may modify its order at any subsequent time upon motion by either party and a showing of a substantial change in circumstance.

(f) No filing fee shall be required.

(g) Every order under this chapter shall contain the name of the court, the names of the parties, the date of the petition, the date and time of the order, and shall be signed by the judge.

(h) Form complaints and form orders shall be provided by the Court Administrator and shall be maintained by the clerks of the courts.

(i) When findings are required under this section, the court shall make either written findings of fact or oral findings of fact on the record.

(j) Every final order issued under this section shall bear the following language: “VIOLATION OF THIS ORDER IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AND MAY ALSO BE PROSECUTED AS CRIMINAL CONTEMPT PUNISHABLE BY FINE OR IMPRISONMENT, OR BOTH.”

### **15 V.S.A. § 1104. Emergency relief**

(a) In accordance with the Vermont Rules of Civil Procedure, temporary orders under this chapter may be issued ex parte, without notice to the defendant, upon motion and findings by the court that the defendant has abused the plaintiff or the plaintiff’s children, or both. The plaintiff shall submit an affidavit in support of the order, which may be sworn to or affirmed by administration of the oath over the telephone to the applicant by an employee of the Judiciary authorized to administer oaths and shall conclude with the following statement: “I declare under the penalty of perjury pursuant to the laws of the State of Vermont that the foregoing is true and accurate. I understand that making false statements is a crime subject to a term of imprisonment or a fine, or both, as provided by 13 V.S.A. § 2904.” The authorized person shall note on the affidavit the date and time that the oath was administered. A minor 16 years of age or older, or a minor of any age who is in a dating relationship as defined in subdivision 1101(2) of this chapter, may seek relief on the minor’s own behalf. Relief under this section shall be limited as follows:

(1) Upon a finding that there is an immediate danger of further abuse, an order may be granted requiring the defendant:

(A) to refrain from abusing the plaintiff or the plaintiff’s children, or both, or from cruelly treating as defined in 13 V.S.A. § 352 or 352a or killing any animal owned, possessed, leased, kept, or held as a pet by either party or by a minor child residing in the household;

(B) to refrain from interfering with the plaintiff’s personal liberty or the personal liberty of the plaintiff’s children, or both;

(C) to refrain from coming within a fixed distance of the plaintiff, the plaintiff’s children, the plaintiff’s residence, or the plaintiff’s place of employment;

(D) to refrain from contacting the plaintiff or the plaintiff’s children, or both, in any way, whether directly, indirectly, or through a third party, with the purpose of making contact with the plaintiff, including in writing or by telephone, e-mail, or other electronic communication; or

(E) to immediately relinquish, until the expiration of the order, all firearms that are in the defendant's possession, ownership, or control and to refrain from acquiring or possessing any firearms while the order is in effect.

(2) Upon a finding that the plaintiff or the plaintiff's children, or both, have been forced from the household and will be without shelter unless the defendant is ordered to vacate the premises, the court may order the defendant to vacate immediately the household and may order sole possession of the premises to the plaintiff.

(3) Upon a finding that there is immediate danger of physical or emotional harm to minor children, the court may award temporary custody of these minor children to the plaintiff or to other persons.

(b) Every order issued under this section shall contain the name of the court, the names of the parties, the date of the petition, and the date and time of the order and shall be signed by the judge. Every order issued under this section shall inform the defendant that if he or she fails to appear at the final hearing, the temporary order will remain in effect until the final order is served on the defendant unless the temporary order is dismissed by the court. Every order issued under this section shall state upon its face a date, time, and place when the defendant may appear to petition the court for modification or discharge of the order. This opportunity to contest shall be scheduled as soon as reasonably possible, which in no event shall be more than 14 days from the date of issuance of the order. At such hearings, the plaintiff shall have the burden of proving abuse by a preponderance of the evidence. If the court finds that the plaintiff has met his or her burden, it shall continue the order in effect and make such other order as it deems necessary to protect the plaintiff.

### **20 V.S.A. § 2307. Firearms relinquished pursuant to relief from abuse order; storage; fees; return**

(a) As used in this section:

(1) "Federally licensed firearms dealer" means a licensed importer, licensed manufacturer, or licensed dealer required to conduct national instant criminal background checks under 18 U.S.C. § 922(t).

(2) "Firearm" shall have the same meaning as in 18 U.S.C. § 921(a)(3).

(3) "Law enforcement agency" means the Vermont State Police, a municipal police department, or a sheriff's department.

(b)

(1) A person who is required to relinquish firearms, ammunition, or other weapons in the person's possession by a court order issued under 15 V.S.A. chapter 21 (abuse prevention) or any other provision of law consistent with 18 U.S.C. § 922(g)(8) shall, unless the court orders an alternative relinquishment pursuant to subdivision (2) of this subsection, upon service of the order immediately relinquish the firearms, ammunition, or weapons to a cooperating

law enforcement agency or an approved federally licensed firearms dealer. As used in this subdivision, “person” means anyone who meets the definition of “intimate partner” under 18 U.S.C. § 921(a)(32) or who qualifies as a family or household member under 15 V.S.A. § 1101.

(2)

(A) The court may order that the person relinquish the firearms, ammunition, or other weapons to a person other than a cooperating law enforcement agency or an approved federally licensed firearms dealer unless the court finds that relinquishment to the other person will not adequately protect the safety of the victim.

(B) A person to whom firearms, ammunition, or other weapons are relinquished pursuant to subdivision (2)(A) of this subsection (b) shall execute an affidavit on a form approved by the Court Administrator stating that the person:

(i) acknowledges receipt of the firearms, ammunition, or other weapons;

(ii) assumes responsibility for storage of the firearms, ammunition, or other weapons until further order of the court, and specifies the manner in which he or she will provide secure storage of such items;

(iii) is not prohibited from owning or possessing firearms under State or federal law; and

(iv) understands the obligations and requirements of the court order, including the potential for the person to be subject to civil contempt proceedings pursuant to subdivision (2)(C) of this subsection (b) if the person permits the firearms, ammunition, or other weapons to be possessed, accessed, or used by the person who relinquished the item or by any other person not authorized by law to do so.

(C) A person to whom firearms, ammunition, or other weapons are relinquished pursuant to subdivision (2)(A) of this subsection (b) shall be subject to civil contempt proceedings under 12 V.S.A. chapter 5 if the person permits the firearms, ammunition, or other weapons to be possessed, accessed, or used by the person who relinquished the item or by any other person not authorized by law to do so. In the event that the person required to relinquish the firearms, ammunition, or other weapons or any other person not authorized by law to possess the relinquished items obtains access to, possession of, or use of a relinquished item, all relinquished items shall be immediately transferred to the possession of a law enforcement agency or approved federally licensed firearms dealer pursuant to subdivision (1) of this subsection (b).

(c) A law enforcement agency or an approved federally licensed firearms dealer that takes possession of a firearm, ammunition, or other weapon pursuant to subdivision (b)(1) of this section shall photograph, catalogue, and store the item in accordance with standards and guidelines established by the Department of Public Safety pursuant to subdivision (i)(3) of this section. A firearm, ammunition, or other weapon shall not be taken into possession pursuant to this section if it is being or may be used as evidence in a pending criminal matter.



(d)

(1) A law enforcement agency that stores firearms, ammunition, or weapons pursuant to subdivision (b)(1) of this section may charge the owner a reasonable storage fee, not to exceed:

(A) \$200.00 for the first firearm or weapon, and \$50.00 for each additional firearm or weapon for up to 15 months, prorated on the number of months the items are stored; and

(B) \$50.00 per firearm or weapon per year for each year or part thereof thereafter.

(2) A federally licensed firearms dealer that stores firearms, ammunition, or weapons pursuant to subdivision (b)(1) of this section may charge the owner a storage fee that is reasonably related to the expenses it incurs in the administration of this section. Any federally licensed firearm dealer that certifies compliance under this section shall provide a copy of its fee schedule to the court.

(3) Fees permitted by this subsection shall not begin to accrue until after the court issues a final relief from abuse order pursuant to 15 V.S.A. § 1103.

(e) Nothing in this section shall be construed to prohibit the lawful sale of firearms or other items.

(f) A final relief from abuse order issued pursuant to 15 V.S.A. § 1103 requiring a person to relinquish firearms, ammunition, or other weapons shall direct the law enforcement agency, approved federally licensed firearms dealer, or other person in possession of the items under subsection (b) of this section to release them to the owner upon expiration of the order if all applicable fees have been paid.

(g)

(1) A law enforcement agency, an approved federally licensed firearms dealer, or any other person that takes possession of firearms, ammunition, or weapons for storage purposes pursuant to this section shall not release the items to the owner without a court order unless the items are to be sold pursuant to subdivision (2)(A) of this subsection. If a court orders the release of firearms, ammunition, or weapons stored under this section, the law enforcement agency or firearms dealer in possession of the items shall make them available to the owner within three business days of receipt of the order and in a manner consistent with federal law. The Supreme Court may promulgate rules under 12 V.S.A. § 1 for judicial proceedings under this subsection.

(2)

(A)

(i) If the owner fails to retrieve the firearm, ammunition, or weapon and pay the applicable storage fee within 90 days of the court order releasing the items, the firearm, ammunition, or weapon may be sold for fair market value. Title to the items shall pass to the law enforcement agency or firearms dealer for the purpose of transferring

ownership, except that the Vermont State Police shall follow the procedure described in section 2305 of this title.

(ii) The law enforcement agency or approved firearms dealer shall make a reasonable effort to notify the owner of the sale before it occurs. In no event shall the sale occur until after the court issues a final relief from abuse order pursuant to 15 V.S.A. § 1103.

(iii) As used in this subdivision (2)(A), “reasonable effort” shall mean notice shall be served as provided for by Rule 4 of the Vermont Rules of Civil Procedure.

(B) Proceeds from the sale of a firearm, ammunition, or weapon pursuant to subdivision (A) of this subdivision (2) shall be apportioned as follows:

(i) unpaid storage fees and associated costs, including the costs of sale and of locating and serving the owner, shall be paid to the law enforcement agency or firearms dealer that incurred the cost; and

(ii) any proceeds remaining after payment is made to the law enforcement agency or firearms dealer pursuant to subdivision (i) of this subdivision (2)(B) shall be paid to the original owner.

(h) A law enforcement agency shall be immune from civil or criminal liability for any damage or deterioration of firearms, ammunition, or weapons stored or transported pursuant to subsection (c) of this section. This subsection shall not apply if the damage or deterioration occurred as a result of recklessness, gross negligence, or intentional misconduct by the law enforcement agency.

(i) The Department of Public Safety shall be responsible for the implementation and establishment of standards and guidelines to carry out this section. To carry out this responsibility, the Department shall:

(1) Establish minimum standards to be a qualified storage location and maintain a list of qualified storage locations, including:

(A) federally licensed firearms dealers that annually certify compliance with the Department’s standards to receive firearms, ammunition, or other weapons pursuant to subdivision (b)(2) of this section; and

(B) cooperating law enforcement agencies.

(2) Establish a fee schedule consistent with the fees established in this section for the storage of firearms and other weapons by law enforcement agencies pursuant to this section.

(3) Establish standards and guidelines to provide for the storage of firearms, ammunition, and other weapons pursuant to this section by law enforcement agencies. Such guidelines shall provide that:

(A) with the consent of the law enforcement agency taking possession of a firearm, ammunition, or weapon under this section, an owner may provide a storage container for the storage of such relinquished items;

(B) the law enforcement agency that takes possession of the firearm, ammunition, or weapon may provide a storage container for the relinquished item or items at an additional fee; and

(C) the law enforcement agency that takes possession of the firearm, ammunition, or weapon shall present the owner with a receipt at the time of relinquishment that includes the serial number and identifying characteristics of the firearm, ammunition, or weapon and record the receipt of the item or items in a log to be established by the Department.

# VIRGINIA

## Summary: Relinquishment order required in qualifying DVPOs.

Highlighted Provisions:

### **Va. Code Ann. § 18.2-308.1:4**

C. Upon issuance of a protective order pursuant to § 16.1-279.1 or 19.2-152.10, the court shall order the person who is subject to the protective order to (i) within 24 hours after being served with a protective order in accordance with subsection C of § 16.1-279.1 or subsection D of § 19.2-152.10 (a) surrender any firearm possessed by such person to a designated local law-enforcement agency, (b) sell or transfer any firearm possessed by such person to a dealer as defined in § 18.2-308.2:2, or (c) sell or transfer any firearm possessed by such person to any person who is not otherwise prohibited by law from possessing such firearm and (ii) within 48 hours after being served with a protective order in accordance with subsection C of § 16.1-279.1 or subsection D of § 19.2-152.10, certify in writing, on a form provided by the Office of the Executive Secretary of the Supreme Court, that such person does not possess any firearms or that all firearms possessed by such person have been surrendered, sold, or transferred and file such certification with the clerk of the court that entered the protective order. The willful failure of any person to certify in writing in accordance with this section that all firearms possessed by such person have been surrendered, sold, or transferred or that such person does not possess any firearms shall constitute contempt of court.

D. The person who is subject to a protective order pursuant to § 16.1-279.1 or 19.2-152.10 shall be provided with the address and hours of operation of a designated local law-enforcement agency and the certification forms when such person is served with a protective order in accordance with subsection C of § 16.1-279.1 or subsection D of § 19.2-152.10.

E. A law-enforcement agency that takes into custody a firearm surrendered to such agency pursuant to subsection C by a person who is subject to a protective order pursuant to § 16.1-279.1 or 19.2-152.10 shall prepare a written receipt containing the name of the person who surrendered the firearm and the manufacturer, model, and serial number of the firearm and provide a copy to such person. Any firearm surrendered to and held by a law-enforcement agency pursuant to subsection C shall be returned by such agency to the person who surrendered the firearm upon the expiration or dissolution of the protective order entered pursuant to § 16.1-279.1 or 19.2-152.10. Such agency shall return the firearm within five days of receiving a written request for the return of the firearm by the person who surrendered the firearm and a copy of the receipt provided to such person by the agency. Prior to returning the firearm to such person, the law-enforcement agency holding the firearm shall confirm that such person is no longer subject to a

protective order issued pursuant to § 16.1-279.1 or 19.2-152.10 and is not otherwise prohibited by law from possessing a firearm. A firearm surrendered to a law-enforcement agency pursuant to subsection C may be disposed of in accordance with the provisions of § 15.2-1721 if (i) the person from whom the firearm was seized provides written authorization for such disposal to the agency or (ii) the firearm remains in the possession of the agency more than 120 days after such person is no longer subject to a protective order issued pursuant to § 16.1-279.1 or 19.2-152.10 and such person has not submitted a request in writing for the return of the firearm.

F. Any law-enforcement agency or law-enforcement officer that takes into custody, stores, possesses, or transports a firearm pursuant to this section shall be immune from civil or criminal liability for any damage to or deterioration, loss, or theft of such firearm.

G. The law-enforcement agencies of the counties, cities, and towns within each judicial circuit shall designate, in coordination with each other, and provide to the chief judges of all circuit and district courts within the judicial circuit, one or more local law-enforcement agencies to receive and store firearms pursuant to this section. The law-enforcement agencies shall provide the chief judges with a list that includes the addresses and hours of operation for any law-enforcement agencies so designated that such addresses and hours of operation may be provided to a person served with a protective order in accordance with subsection C of § 16.1-279.1 or subsection D of § 19.2-152.10.

# WASHINGTON

Summary: Relinquishment orders are required in qualifying DVPOs.

Highlighted Provisions:

## Civil DVPOs

### **Wash. Rev. Code Ann. § 9.41.800**

#### **Surrender of weapons or licenses—Prohibition on future possession or licensing.**

(1) Any court when entering an order authorized under chapter 7.105 RCW [civil protection orders], RCW 9A.40.102 [trafficking no-contact order], 9A.44.210 [sexual assault no-contact order], 9A.46.080 [violation of restricted contract order], 9A.88.160 [promoting prostitution no-contact order], 10.99.040 [emergency no-contact order], 10.99.045 [no-contact order], 26.09.050 [dissolution of marriage proceedings restraining orders], 26.09.060 [dissolution of marriage proceedings temporary restraining order], 26.26B.020 [restraining orders regarding custody], 26.26A.470 [temporary restraining order regarding custody], or 46.61.5055 [motor vehicle alcohol and drug violations] shall, upon a showing by a preponderance of the evidence, that a party has: Used, displayed, or threatened to use a firearm or other dangerous weapon in a felony, or is ineligible to possess a firearm under the provisions of RCW 9.41.040:

- (a) Require that the party immediately surrender all firearms and other dangerous weapons;
- (b) Require that the party immediately surrender any concealed pistol license issued under RCW 9.41.070;
- (c) Prohibit the party from accessing, having custody or control, possessing, purchasing, receiving, or attempting to purchase or receive, any firearms or other dangerous weapons;
- (d) Prohibit the party from obtaining or possessing a concealed pistol license;
- (e) Other than for ex parte temporary protection orders, unless the ex parte temporary protection order was reissued after the party received notice and had an opportunity to be heard, direct law enforcement to revoke any concealed pistol license issued to the party.

(2) During any period of time that the party is subject to a court order issued under chapter 7.105 [civil protection orders], 9A.46 [harassment], 10.99 [domestic violence], 26.09 [dissolution proceedings/legal separation], 26.26A [Uniform Parentage Act], or 26.26B RCW [Miscellaneous Parentage Act Provisions] that:

- (a) Was issued after a hearing of which the party received actual notice, and at which the

party had an opportunity to participate, whether the court then issues a full order or reissues a temporary order. If the court enters an agreed order by the parties without a hearing, such an order meets the requirements of this subsection;

(b) Restrains the party from harassing, stalking, or threatening an intimate partner of the party, the protected person, or child of the intimate partner, party, or protected person, or engaging in other conduct that would place an intimate partner or protected person in reasonable fear of bodily injury to the intimate partner, protected person, or child; and

(c)

(i) Includes a finding that the party represents a credible threat to the physical safety of the intimate partner, protected person, or child; or

(ii) By its terms, explicitly prohibits the use, attempted use, or threatened use of physical force against the intimate partner, protected person, or child that would reasonably be expected to cause bodily injury, the court shall:

(A) Require that the party immediately surrender all firearms and other dangerous weapons;

(B) Require that the party immediately surrender a concealed pistol license issued under RCW 9.41.070;

(C) Prohibit the party from accessing, having custody or control, possessing, purchasing, receiving, or attempting to purchase or receive, any firearms or other dangerous weapons; and

(D) Prohibit the party from obtaining or possessing a concealed pistol license.

(3) The court may order temporary surrender and prohibit the purchase of all firearms and other dangerous weapons, and any concealed pistol license, without notice to the other party if it finds, on the basis of the moving affidavit or other evidence, that irreparable injury could result if an order is not issued until the time for response has elapsed.

(4) In addition to the provisions of subsections (1) and (3) of this section, the court may enter an order requiring a party to comply with the provisions in subsection (1) of this section if it finds that the possession of a firearm or other dangerous weapon by any party presents a serious and imminent threat to public health or safety, or to the health or safety of any individual.

(5) The requirements of subsections (1) and (4) of this section may be for a period of time less than the duration of the order.

(6) The court shall require the party to surrender all firearms and other dangerous weapons in the party's custody, control, or possession, or subject to the party's immediate possession or control, and any concealed pistol license issued under RCW 9.41.070, to the local law enforcement agency.

(7) If the court enters a protection order, restraining order, or no-contact order that includes an order to surrender firearms, dangerous weapons, and any concealed pistol license under this section:

- (a) The order must be served by a law enforcement officer;
- (b) Law enforcement must immediately ensure entry of the order to surrender and prohibit weapons and the revocation of any concealed pistol license is made into the appropriate databases making the party ineligible to possess firearms and a concealed pistol license; and
- (c) Law enforcement officers shall use law enforcement databases to assist in locating the party in situations where the protected person does not know where the party lives or where there is evidence that the party is trying to evade service.

**Wash. Rev. Code Ann. § 9.41.801**

**Surrender of weapons or licenses—Ensuring compliance.**

(1) Because of the heightened risk of lethality to petitioners when respondents to protection orders become aware of court involvement and continue to have access to firearms, and the frequency of noncompliance with court orders prohibiting possession of firearms, law enforcement and judicial processes must emphasize swift and certain compliance with court orders prohibiting access, possession, and ownership of all firearms.

(2) A law enforcement officer serving a protection order, no-contact order, or restraining order that includes an order to surrender all firearms, dangerous weapons, and a concealed pistol license under RCW 9.41.800 shall inform the respondent that the order is effective upon service and the respondent must immediately surrender all firearms and dangerous weapons in the respondent's custody, control, or possession and any concealed pistol license issued under RCW 9.41.070, and conduct any search permitted by law for such firearms, dangerous weapons, and concealed pistol license. The law enforcement officer shall take possession of all firearms, dangerous weapons, and any concealed pistol license belonging to the respondent that are surrendered, in plain sight, or discovered pursuant to a lawful search. If the order is entered in open court and the respondent appears in person, the respondent shall be provided a copy and further service is not required. If the respondent refuses to receive a copy, an agent of the court may indicate on the record that the respondent refused to receive a copy of the order. If the respondent appears remotely for the hearing, or leaves the hearing before a final ruling is issued or order signed, and the court believes the respondent has sufficient notice such that additional service is not necessary, the order must recite that the respondent appeared before the court, has actual notice of the order, the necessity for further service is waived, and proof of service of the order is not necessary. The court shall enter the service and receipt into the record. A copy of the order and service shall be transmitted immediately to law enforcement. The respondent must immediately surrender all firearms, dangerous weapons, and any concealed pistol license in a safe manner to the control of the local law enforcement agency on the day of the hearing at which the respondent was present in person or remotely. Alternatively, if personal service by a law enforcement officer is not possible, and the respondent did not appear in person or remotely at the hearing, the respondent shall surrender the firearms in a safe manner to the control of the local law enforcement agency within 24 hours of being served with the order by alternate service.



(3) At the time of surrender, a law enforcement officer taking possession of firearms, dangerous weapons, and any concealed pistol license shall issue a receipt identifying all firearms, dangerous weapons, and any concealed pistol license that have been surrendered and provide a copy of the receipt to the respondent. The law enforcement agency shall file the original receipt with the court within 24 hours after service of the order and retain a copy of the receipt, electronically whenever electronic filing is available.

(4) Upon the sworn statement or testimony of the petitioner or of any law enforcement officer alleging that the respondent has failed to comply with the surrender of firearms or dangerous weapons as required by an order issued under RCW 9.41.800 or 10.99.100, the court shall determine whether probable cause exists to believe that the respondent has failed to surrender all firearms and dangerous weapons in their possession, custody, or control. If probable cause exists that a crime occurred, the court shall issue a warrant describing the firearms or dangerous weapons and authorizing a search of the locations where the firearms and dangerous weapons are reasonably believed to be and the seizure of all firearms and dangerous weapons discovered pursuant to such search.

(5) If a person other than the respondent claims title to any firearms or dangerous weapons surrendered pursuant to this section, and the person is determined by the law enforcement agency to be the lawful owner of the firearm or dangerous weapon, the firearm or dangerous weapon shall be returned to the lawful owner, provided that:

(a) The firearm or dangerous weapon is removed from the respondent's access, custody, control, or possession and the lawful owner agrees by written document signed under penalty of perjury to store the firearm or dangerous weapon in a manner such that the respondent does not have access to or control of the firearm or dangerous weapon;

(b) The firearm or dangerous weapon is not otherwise unlawfully possessed by the owner; and

(c) The requirements of RCW 9.41.345 are met.

(6)

(a) Courts shall develop procedures to verify timely and complete compliance with orders to surrender and prohibit weapons under RCW 9.41.800 or 10.99.100, including compliance review hearings to be held as soon as possible upon receipt from law enforcement of proof of service. For any case where the court has indication that the respondent has in the respondent's possession, custody, or control firearms, dangerous weapons, or a concealed pistol license, a compliance review hearing shall be held. A compliance review hearing may be waived by the court or held at a later date if the information attested to by the person subject to the order, along with verification from law enforcement and any other relevant evidence, makes a sufficient showing that the person has timely and completely surrendered all firearms and dangerous weapons in the person's custody, control, or possession, and any concealed pistol license issued under RCW 9.41.070, to a law enforcement agency, and the court is able to make a finding of compliance. If the court does not have a sufficient

record before it on which to make such a finding, the court must set a review hearing to occur as soon as possible and service by law enforcement shall be prioritized to minimize the time during which the respondent could access their firearms, dangerous weapons, or concealed pistol license. The respondent must be present and provide proof of compliance with the court's order. Courts shall make available forms that petitioners may complete and submit to the court in response to a respondent's declaration of whether the respondent has surrendered weapons.

(b) In making its findings regarding compliance, the court should also consider any available department of licensing and Washington state patrol firearm records; for criminal cases, the police report and any documentation of firearms, or their recovery pursuant to RCW 10.99.030(3)(a); and for civil protection order cases, the protection order narrative, any sections of the protection order petition that specifically reference or inquire about firearms and other dangerous weapons, any attachments to the protection order petition, any affidavits from law enforcement or the petitioner in response to a respondent's declaration regarding firearm surrender, or other relevant evidence regarding firearms, dangerous weapons, or a concealed pistol license in the person's custody, control, or possession.

(c) If the court is considering waiving or delaying the compliance review hearing, the petitioner, law enforcement, or the state or city attorney may request that the compliance hearing be held, if there is reasonable suspicion to believe that the respondent has not surrendered all firearms, dangerous weapons, and any concealed pistol license, or is otherwise out of compliance with the court's order.

(7)

(a) If a court finds at the compliance review hearing, or any other hearing where compliance with the order to surrender and prohibit weapons is addressed, that there is probable cause to believe the respondent was aware of and failed to fully comply with the order, failed to appear at the compliance review hearing, or violated the order after the court entered findings of compliance, pursuant to its authority under chapter 7.21 RCW, the court may issue an arrest warrant and initiate a contempt proceeding to impose remedial sanctions on its own motion, or upon the motion of the prosecutor, city attorney, or the petitioner's counsel, and issue an order requiring the respondent to appear, with additional sanctions for failure to appear, provide proof of compliance with the order, and show cause why the respondent should not be held in contempt of court.

(b) If the respondent is not present in court at the compliance review hearing or if the court issues an order to appear and show cause after a compliance review hearing, the clerk of the court shall electronically transmit a copy of the order to show cause to the law enforcement agency where the respondent resides for personal service or service in the manner provided in the civil rules of superior court or applicable statute. Law enforcement shall also serve a copy of the order to show cause on the petitioner, either electronically or in person, at no cost.

(c) The order to show cause served upon the respondent shall state the date, time, and location of the hearing and shall include a warning that the respondent may be held in

contempt of court if the respondent fails to promptly comply with the terms of the order to surrender and prohibit weapons and a warning that an arrest warrant could be issued if the respondent fails to appear on the date and time provided in the order.

(d)

(i) At the show cause hearing, the respondent must be present and provide proof of compliance with the underlying court order to surrender and prohibit weapons and demonstrate why the relief requested should not be granted.

(ii) The court shall take judicial notice of the receipt filed with the court by the law enforcement agency pursuant to subsection (3) of this section. The court shall also provide sufficient notice to the law enforcement agency of the hearing. Upon receiving notice pursuant to this subsection, a law enforcement agency must:

(A) Provide the court with a complete list of firearms and other dangerous weapons surrendered by the respondent or otherwise belonging to the respondent that are in the possession of the law enforcement agency; and

(B) Provide the court with verification that any concealed pistol license issued to the respondent has been surrendered and an agency with authority to revoke the license has been notified.

(iii) If the law enforcement agency has a reasonable suspicion that the respondent is not in full compliance with the terms of the order, the law enforcement agency must submit the basis for its belief to the court, and may do so through the filing of a declaration.

(e) If the court finds the respondent in contempt, the court may impose remedial sanctions designed to ensure swift compliance with the order to surrender and prohibit weapons.

(f) The court may order a respondent found in contempt of the order to surrender and prohibit weapons to pay for any losses incurred by a party in connection with the contempt proceeding, including reasonable attorneys' fees, service fees, and other costs. The costs of the proceeding shall not be borne by the petitioner.

(8)

(a) To help ensure that accurate and comprehensive information about firearms compliance is provided to judicial officers, a representative from either the prosecuting attorney's office or city attorney's office, or both, from the relevant jurisdiction may appear and be heard or submit written information at any hearing that concerns compliance with an order to surrender and prohibit weapons.

(b) Either the prosecuting attorney's office or city attorney's office, or both, from the relevant jurisdiction may designate an advocate or a staff person from their office who is not an attorney to appear on behalf of their office. Such appearance does not constitute the unauthorized practice of law.

(9)

(a) The act of voluntarily surrendering firearms or weapons, providing testimony relating to the surrender of firearms or weapons, or complying with an order to surrender and prohibit weapons issued pursuant to RCW 9.41.800 or 10.99.100, and any information directly or indirectly derived from such act or testimony, may not be used against the person subject to the order in any criminal prosecution under this chapter, chapter 7.105 RCW, or RCW 9A.56.310, or in any criminal prosecution pursuant to which such order to surrender and prohibit weapons was issued, except a prosecution for perjury, giving a false statement, or otherwise failing to comply with the order. Every such order issued subsequent to July 23, 2023, shall contain language consistent with the statutory immunity set forth in this subsection.

(b) If a person subject to such an order invokes the privilege against self-incrimination at the time of issuance of the order or at a subsequent hearing, the court may afford the person subject to the order an opportunity to demonstrate that compliance with the surrender provision of the order would expose that person to a realistic threat of self-incrimination in a subsequent or pending criminal proceeding. The court may conduct this portion of the proceeding *ex parte* or receive evidence *in camera*, without the presence of the prosecuting attorney, after the court conducts an analysis under *State v. Bone-Club*, 128 wn.2d 254, and concludes that the courtroom may be closed.

(c) If the person subject to the order establishes such a realistic threat of self-incrimination regarding possible criminal prosecution that is not addressed by the immunity from prosecution set forth in (a) of this subsection, the court shall afford the relevant prosecuting attorney an opportunity to offer an immunity agreement tailored specifically to the firearms or weapons implicated by the potential self-incrimination. To achieve the purposes of this section, any immunity offered should be narrowly tailored to address any realistic threat of self-incrimination while ensuring that any other firearms not implicated are surrendered.

(d) Any immunity from prosecution beyond the immunity set forth in (a) of this subsection, may only be extended by the prosecuting attorney. If the prosecuting attorney declines to extend immunity such that the person subject to the order cannot fully comply with its surrender provision without facing a realistic threat of self-incrimination, the court's order must provide for the surrender of every firearm, dangerous weapon, and concealed pistol license that does not implicate a realistic threat of self-incrimination. The order's prohibitions regarding accessing, purchasing, receiving, or attempting to purchase or receive, any firearms or other dangerous weapons, or concealed pistol license, remain in effect.

(e) Nothing in this section shall be interpreted as diminishing the requirement that the person subject to the order fully comply with the order issued by the court. The burden remains on the person subject to the order to prove compliance.

(10) To provide relevant information to the court to determine compliance with the order, the court may allow the prosecuting attorney or city attorney to question the respondent regarding compliance.

(11) All law enforcement agencies must have policies and procedures to provide for the acceptance, storage, and return of firearms, dangerous weapons, and concealed pistol licenses that a court requires must be surrendered under RCW 9.41.800. A law enforcement agency holding any firearm or concealed pistol license that has been surrendered under RCW 9.41.800 shall comply with the provisions of RCW 9.41.340 and 9.41.345 before the return of the firearm or concealed pistol license to the owner or individual from whom it was obtained.

(12) The administrative office of the courts shall create a statewide pattern form to assist the courts in ensuring timely and complete compliance in a consistent manner with orders issued under this chapter. The administrative office of the courts shall report annually on the number of ex parte and full orders issued under this chapter by each court, and, if available, the type of protection order, no-contact order, restraining order, or criminal charge with which the order was issued, the duration of the order, the period of time from issuance of the order until the court's finding of compliance, any violations, the nature of the violations, any sanctions imposed, the number of firearms obtained pursuant to each order, whether subsequent orders were issued involving the same respondent, and may make recommendations regarding additional procedures, training, or data collection and reporting to enhance compliance and victim safety.

**Wash. Rev. Code Ann. § 9.41.804**

**Proof of surrender and receipt form, declaration, or other evidence—Requirement to file with clerk of the court.**

(1) To prove full compliance with the court's order to surrender firearms, dangerous weapons, and any concealed pistol license under RCW 9.41.800 the person subject to the order must file with the clerk of the court: (a) A completed proof of surrender and receipt form; (b) a declaration that the person has no firearms, dangerous weapons, or concealed pistol license; or (c) other evidence sufficient to establish full and timely compliance with the order.

(2) The verification of compliance required in subsection (1) of this section must be provided to the court within 24 hours of service of the order, unless the order is pursuant to a criminal proceeding. In a criminal proceeding, if the person subject to the order is in custody, proof of compliance must be provided to the court before the person subject to the order is released from custody; otherwise, proof of compliance must be provided before the conclusion of the sentencing hearing. If the court finds that surrender of all firearms, dangerous weapons, and any concealed pistol license is not possible prior to release or prior to the conclusion of the hearing, then arrangements for surrender shall be made and approved by the court before the person's release from custody or before the conclusion of the sentencing hearing, and the court shall order a law enforcement officer to accompany the person to the location where the firearms, dangerous weapons, and concealed pistol license are located so that they are surrendered directly to the law enforcement officer. Surrender to local law enforcement shall occur in a safe manner and proof of compliance provided by law enforcement to the court within 24 hours of either the person's release from custody or the conclusion of the sentencing hearing.

## Summary: Relinquishment order is required in qualifying DVPOs.

Highlighted Provisions:

### **Wis. Stat. § 813.12(4)**

(4) Injunction.

(a) A judge or circuit court commissioner may grant an injunction ordering the respondent to refrain from committing acts of domestic abuse against the petitioner, to avoid the petitioner's residence, except as provided in par. (am), or any other location temporarily occupied by the petitioner or both, or to avoid contacting or causing any person other than a party's attorney or a law enforcement officer to contact the petitioner unless the petitioner consents to that contact in writing, to refrain from removing, hiding, damaging, harming, or mistreating, or disposing of, a household pet, to allow the petitioner or a family member or household member of the petitioner acting on his or her behalf to retrieve a household pet, or any combination of these remedies requested in the petition, or any other appropriate remedy not inconsistent with the remedies requested in the petition, if all of the following occur:

1. The petitioner files a petition alleging the elements set forth under sub. (5) (a).
2. The petitioner serves upon the respondent a copy or summary of the petition and notice of the time for hearing on the issuance of the injunction, or the respondent serves upon the petitioner notice of the time for hearing on the issuance of the injunction.
3. After hearing, the judge or circuit court commissioner finds reasonable grounds to believe that the respondent has engaged in, or based upon prior conduct of the petitioner and the respondent may engage in, domestic abuse of the petitioner.

(aj) In determining whether to issue an injunction, the judge or circuit court commissioner shall consider the potential danger posed to the petitioner and the pattern of abusive conduct of the respondent but may not base his or her decision solely on the length of time since the last domestic abuse or the length of time since the relationship ended. The judge or circuit court commissioner may grant only the remedies requested by the petitioner. The judge or circuit court commissioner may not dismiss or deny granting an injunction because of the existence of a pending action or of any other court order that bars contact between the parties, nor due to the necessity of verifying the terms of an existing court order.

(am) If the petitioner and the respondent are not married, the respondent owns the premises where the petitioner resides and the petitioner has no legal interest in the premises, in lieu of

ordering the respondent to avoid the petitioner's residence under par. (a) the judge or circuit court commissioner may order the respondent to avoid the premises for a reasonable time until the petitioner relocates and shall order the respondent to avoid the new residence for the duration of the order.

(b) The judge or circuit court commissioner may enter an injunction only against the respondent named in the petition. No injunction may be issued under this subsection under the same case number against the person petitioning for the injunction. The judge or circuit court commissioner may not modify an order restraining the respondent based solely on the request of the respondent.

(c)

1. An injunction under this subsection is effective according to its terms, for the period of time that the petitioner requests, but not more than 4 years, except as provided in par. (d). An injunction granted under this subsection is not voided if the petitioner allows or initiates contact with the respondent or by the admittance of the respondent into a dwelling that the injunction directs him or her to avoid.

2. When an injunction expires, the court shall extend the injunction if the petitioner states that an extension is necessary to protect him or her. This extension shall remain in effect until 4 years after the date the court first entered the injunction, except as provided in par. (d).

4. Notice need not be given to the respondent before extending an injunction under subd. 2. The clerk of courts shall notify the respondent after the court extends an injunction under subd. 2.

(d)

1. A judge or circuit court commissioner may, upon issuing an injunction or granting an extension of an injunction issued under this subsection, order that the injunction is in effect for not more than 10 years, if the court finds, by a preponderance of the evidence stated on the record, that any of the following is true:

a. There is a substantial risk that the respondent may commit first-degree intentional homicide under s. 940.01, or 2nd-degree intentional homicide under s. 940.05, against the petitioner.

b. There is a substantial risk that the respondent may commit sexual assault under s. 940.225 (1), (2), or (3), or under s. 948.02 (1) or (2), against the petitioner.

1m. Upon request by the petitioner, a judge or circuit court commissioner may order that the injunction is in effect permanently if the respondent has been convicted of a violation of s. 940.225 (1) to (3) in which the petitioner was the crime victim. An order based on a finding under this subdivision is subject to review and modification under s. 813.126 (1m).

2. This paragraph does not prohibit a petitioner from requesting a new temporary restraining order under sub. (3) or injunction under this subsection before or at the expiration of a previously entered order or injunction.

...

(4m) Notice of restriction on firearm possession; surrender of firearms.

(a) An injunction issued under sub. (4) shall do all of the following:

1. Inform the respondent named in the petition of the requirements and penalties under s. 941.29 and any similar applicable federal laws and penalties.

2. Except as provided in par. (ag), require in writing the respondent to surrender any firearms that he or she owns or has in his or her possession to the sheriff of the county in which the action under this section was commenced, to the sheriff of the county in which the respondent resides or to another person designated by the respondent and approved by the judge or circuit court commissioner, in accordance with s. 813.1285.

(ag) If the respondent is a peace officer, an injunction issued under sub. (4) may not require the respondent to surrender a firearm that he or she is required, as a condition of employment, to possess whether or not he or she is on duty.

### **813.1285 Notice and process for firearm surrender.**

...

(1g) Surrender and extend order. If the court issues a surrender and extend order, the court shall do all of the following:

(a) Order the respondent to surrender, within a period that is no longer than 48 hours, any firearm that he or she owns or possesses to the sheriff or, in the court's discretion, to another person.

(b) Order that the respondent may possess or transport a firearm only for the purpose of complying with par. (a).

(c) If the court stays an injunction, order the respondent subject to a temporary restraining order during the stay of the injunction and extend the temporary restraining order for a period of 48 hours for the purpose of firearm surrender.

(d) Inform the respondent when the injunction will take effect and the penalty for possessing a firearm while the injunction is in effect.

(e) Instruct the respondent how to surrender any firearm.

(f) If appropriate, order the respondent to attend a hearing to surrender firearms.

(1m) Temporary restraining orders. If the court is required to extend a temporary restraining order under this section, and a temporary restraining order was not previously granted, the court shall, on its own motion, reconsider and grant the temporary restraining order.



(2) Firearm possession determination.

(a) If the respondent is present at the injunction hearing, the court shall stay the injunction for a period not to exceed 48 hours and shall extend the temporary restraining order for 48 hours for the purpose of firearm surrender. The respondent shall provide the court a completed firearm possession form. The court shall verify the information on the firearm possession form and shall make an inquiry on the record as to the contents of the firearm possession form.

(b) If the respondent is not present at the injunction hearing, the court shall provide the petitioner with an opportunity to inform the court orally or in writing whether he or she believes that the respondent possesses a firearm. If the petitioner informs the court that the respondent possesses a firearm, the court shall request the petitioner to inform the court orally or in writing how many firearms he or she believes the respondent possesses, the make and model of any firearm he or she believes the respondent possesses, and the location of any firearm he or she believes the respondent possesses.

(c)

1. If the firearm possession form submitted to the court under par. (a) or (b) indicates the respondent does not possess a firearm, and the court, after an inquiry, is satisfied that the respondent does not possess a firearm, the court shall file the firearm possession form, lift the stay of the injunction, and dismiss the temporary restraining order extended under par. (a).

2. If, under par. (a), the firearm possession form submitted to the court indicates the respondent possesses a firearm, and the respondent has not surrendered his or her firearm as described under sub. (3) (a), the court shall continue to stay the injunction as provided under par. (a) for a period not to exceed 48 hours, issue a surrender and extend order, and schedule a hearing to surrender firearms to occur within one week of the injunction hearing.

3. If, under par. (b), the petitioner indicates that the respondent possesses a firearm or if the court is not satisfied under subd. 1. that the respondent does not possess a firearm, the court shall schedule a hearing to surrender firearms to occur within one week of the injunction hearing. The court shall do one of the following:

a. Continue the stay under par. (a) of the injunction and issue a surrender and extend order.

b. Lift the stay of the injunction.

4. The court may schedule a hearing to surrender firearms for any reason relevant to the surrender of firearms.

(3) Surrender of firearms.

(a) Unless the court has noted another reason that is relevant to the surrender of firearms that would require the hearing to surrender firearms to occur, the court shall dismiss the hearing to surrender firearms scheduled under sub. (2) (c) 2. or 3. if the respondent surrenders his or her firearm in one of the following manners:

1. The respondent surrenders his or her firearm to another person and all of the following apply:
  - a. The respondent and the person to whom the respondent is surrendering his or her firearm appear at the injunction hearing.
  - b. At the injunction hearing, the person testifies under oath that the person has received the firearms listed on the respondent's firearm possession form.
  - c. At the injunction hearing, the court determines that the person is not prohibited from possessing a firearm.
  - d. The court informs the person to whom the firearm is surrendered of the requirements and penalties under s. 941.2905.
  - e. The court, after considering all relevant factors and any input from the petitioner, approves the surrender of the firearm.
  - f. The court does not use the process under subd. 3.
2. The respondent surrenders his or her firearm to a sheriff no later than 48 hours after the injunction hearing ordering the respondent to surrender his or her firearm and provides a copy of the receipt to the clerk of courts as provided in sub. (6) (b).
3. The respondent surrenders his or her firearm to a sheriff as provided under subd. 2., and a person who appeared at the injunction hearing takes possession of the firearm from the sheriff, if all of the following apply:
  - a. Subdivision 1. d. and e. apply.
  - b. The sheriff determines that the person is not prohibited from possessing a firearm.
    - (b) If the court approves the surrender under par. (a) 1., and if the court has issued a surrender and extend order and has stayed the injunction, the court shall lift the stay and dismiss the temporary restraining order.
- (4) Hearing to surrender firearms.
  - (a) Unless the court dismisses the hearing to surrender firearms, a respondent for whom a hearing to surrender firearms has been scheduled must attend the hearing. If the respondent fails to attend the hearing to surrender firearms, the court shall issue an arrest warrant for the respondent.
  - (b) At the hearing to surrender firearms, the court shall stay the injunction for a period not to exceed 48 hours, shall extend the temporary restraining order for 48 hours, shall ensure that the respondent has completed a firearm possession form and verify the information provided on the firearm possession form if the information was not already verified under sub. (2) (a), shall make an inquiry on the record as to the contents of the firearm possession form, and shall do one of the following:

1. If the respondent wants to surrender his or her firearms to a person who is not the sheriff and who appears at the hearing to surrender firearms, and if the court, after considering all relevant factors and input from the petitioner, approves the surrender and informs the person to whom the firearms are surrendered of the requirements and penalties under s. 941.2905, order the respondent to surrender his or her firearms in one of the following ways:

a. To the person, after the person testifies under oath that he or she has received the firearms listed on the respondent's firearm possession form and after the court determines that the person is not prohibited from possessing a firearm.

b. To the sheriff, who shall transfer the firearms to the person after determining that the person is not prohibited from possessing a firearm.

1m. If the respondent claims to have surrendered his or her firearms to the sheriff in accordance with sub. (6), verify that the respondent has surrendered all such firearms, lift the stay of the injunction, and dismiss the temporary restraining order.

2. Order the respondent to surrender any firearm that the court finds the respondent owns or possesses to a sheriff in accordance with sub. (6). If the respondent has not provided to the court, within 48 hours of the hearing to surrender firearms, a receipt as specified in sub. (6) (b) that shows surrender of all of the firearms that were subject to the order, the court shall presume the respondent is violating the order and the injunction and may do any of the following:

a. Notify the sheriff of the violation for investigation and appropriate action.

b. Schedule another hearing to surrender firearms.

c. Issue a warrant to the sheriff ordering that the respondent be brought before the court to show cause why the respondent should not be held in contempt.

3.

a. If, under subd. 1. b. or 2., the court orders the respondent to surrender his or her firearms to the sheriff, the court shall issue a surrender and extend order.

b. If, under subd. 1. a., the court orders the respondent to surrender his or her firearms to a person who is not the sheriff, the court shall lift any stay of the injunction and dismiss the temporary restraining order.

4. If the firearm possession form indicates that the respondent does not possess a firearm, and the court, after an inquiry, is satisfied that the respondent does not possess a firearm, the court shall file the firearm possession form, lift any stay of the injunction, and dismiss the temporary restraining order.

(5) Firearm possession form and petition for the return of firearms.

(a) The director of state courts shall develop a firearm possession form. Any false information provided on the form by the respondent may be subject to a penalty of false swearing under s.

946.32. The director of state courts shall ensure that the firearm possession form does all of the following:

1. Requires the respondent to list his or her name and address.
2. Includes space for the respondent's signature and date signed.
3. Requires the respondent to indicate whether he or she owns or possesses any firearm or has owned or possessed any firearm in the 6 months immediately preceding the issuance of the injunction, and, if the answer is yes, to list the quantity and the make and model of each firearm and to note whether the firearm was sold or surrendered and whether he or she has a receipt for the firearm sale or surrender.
4. Gives notice of the penalty for false swearing under s. 946.32.

(b) The director of state courts shall develop a petition for the return of firearms in substantially the following form:

STATE OF WISCONSIN

IN CIRCUIT COURT FOR .... COUNTY

Petition to Return Firearm(s)

In re the Return of Firearms to (name of person required to surrender firearms in an injunction action)

Requesting person's information: date of birth, sex, race, height, weight, hair color, eye color, address, and phone number.

Under oath I state that:

1. The court issued an injunction against me on (date of injunction). The injunction was issued based on a:

Domestic Abuse petition.

Child Abuse petition.

Harassment petition.

Adult-at-risk petition.

2. The court ordered me to surrender any firearms I owned or had in my possession to:

the sheriff of this county.

the sheriff of the county in which I resided, which is (name of county).

to the following person (whether directly or indirectly through a sheriff):

name:

address:

3. I surrendered the following firearms as provided in item 2 and have attached a receipt from the sheriff or from the 3rd person (if the person did not provide a receipt, attach a description of the firearm(s)):

4. The injunction has (been vacated) (expired and has not been extended).

5. I (have) (have not) been convicted of a misdemeanor crime of domestic violence.

6. I (have) (have not) been convicted of a felony.

7. I am not prohibited from possessing a firearm under any state or federal law or by the order of any federal court or state court, other than an order from which a judge or family court commissioner is competent to grant relief.

I request that the court enter an order directing that the person named under item 2 return to me those firearms that were surrendered under the order of the court.

Subscribed and sworn to before me on (date)

(Signature of person requesting return of firearms)

(Signature of notary public, state of Wisconsin)

My commission expires on (date)

Dated this .... day of ....., .... (year)

Distribution:

1. Court - original 2. Petitioner in injunction action 3. Person to whom firearm(s) were surrendered (5m) Notification to local law enforcement.

(a) Within one business day after the court issues an order, extends or modifies a temporary restraining order, or stays or lifts a stay on an injunction under this section, the clerk of the circuit court shall send a copy of the order, the extension or modification, or the stay or lift to the sheriff or to any other local law enforcement agency that is the repository for such actions and that has jurisdiction over the premises of the petitioner.

(b) No later than 24 hours after receiving the information under par. (a), the sheriff or other local law enforcement agency under par. (a) shall enter the information concerning the order issued, the extension or modification, or the stay or lift of the injunction under par. (a) into the transaction information for management of enforcement system. The sheriff or other local law enforcement agency shall also make available to other law enforcement agencies, through a verification system, the information received and entered under this paragraph. The information need not be maintained after the order or injunction is no longer in effect.

(6) Surrender of firearm to sheriff.

(a) When a respondent surrenders a firearm under sub. (3) (a) 2. or (4) (b) 2. to a sheriff, the sheriff who is receiving the firearm shall prepare a receipt for each firearm surrendered to him or her. The receipt shall include the date on which the firearm was surrendered and the manufacturer, model, and serial number of the firearm surrendered to the sheriff and shall be signed by the respondent and by the sheriff to whom the firearm is surrendered.

(b) The sheriff shall keep the original of a receipt prepared under par. (a) and shall provide 2 copies of the receipt to the respondent. The respondent shall provide one copy of the receipt to the clerk of courts within 48 hours of the order to surrender firearms. When the firearm covered by the receipt is returned to the respondent under sub. (7), the sheriff shall surrender to the respondent the original receipt and all of his or her copies of the receipt.

(c) A receipt prepared under par. (a) is conclusive proof that the respondent owns the firearm for purposes of returning the firearm covered by the receipt to the respondent under sub. (7).

(d) The sheriff may not enter any information contained on a receipt prepared under par. (a) into any computerized or direct electronic data transfer system in order to store the information or, except as provided in par. (b), disseminate or provide access to the information.

(e)

1. A sheriff may store a firearm surrendered to him or her under sub. (3) (a) 2. or (4) (b) 2. in a warehouse that is operated by a public warehouse keeper licensed under ch. 99. If a sheriff stores a firearm at a warehouse under this subdivision, the respondent shall pay the costs charged by the warehouse for storing that firearm.

2. If an injunction expires and is not extended, or an injunction is vacated, a sheriff may charge the respondent for any costs incurred 30 days after the injunction expires for storage of the firearm surrendered to the sheriff due to that injunction. A sheriff may dispose of a firearm surrendered to the sheriff due to that injunction 12 months after the injunction expires or is vacated and, if the sheriff disposes of the firearm, the sheriff may charge the respondent for the costs of disposal.

(7) Return of firearm.

(a) A firearm surrendered under this section may not be returned to the respondent until the respondent completes a petition for the return of firearms and a judge or circuit court commissioner determines all of the following:

1. That the injunction has been vacated or has expired and not been extended.

2. That the person is not prohibited from possessing a firearm under any state or federal law or by the order of any federal court or state court, other than an order from which the judge or circuit court commissioner is competent to grant relief. The court or commissioner shall use the information provided under s. 165.63 to aid in making the determination under this subdivision.

(b) If a respondent surrenders a firearm under this section that is owned by a person other than the respondent, the person who owns the firearm may apply for its return to the circuit court for the county in which the person to whom the firearm was surrendered is located. The court shall order such notice as it considers adequate to be given to all persons who have or may have an interest in the firearm and shall hold a hearing to hear all claims to its true ownership. If the right to possession is proved to the court's satisfaction, it shall order the firearm returned. If the court returns a firearm under this paragraph, the court shall inform the person to whom the firearm is returned of the requirements and penalties under s. 941.2905.

(8) Penalties. A respondent who violates an order described under sub. (1g) (a) or (b) is subject to a fine of not more than \$10,000 or imprisonment for not more than 9 months or both in addition to any other penalty to which he or she is subject.