



## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

**2009 Assembly Bill 559**

**Assembly Amendments 1, 2,  
and 3**

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2009 Assembly Bill 559 creates a procedure for a person to surrender his or her firearm if ordered to do so under a domestic abuse, child abuse, or harassment injunction.

### **Current Law**

Under current law, a person is prohibited from possessing a firearm and must surrender any firearm he or she currently possesses if he or she is subject to a domestic abuse injunction, a child abuse injunction, or, if the court determines that he or she may use a firearm to harm another or endanger public safety, a harassment injunction.

### **Assembly Bill 559**

Under Assembly Bill 559, if the respondent is present at the hearing on whether to issue an injunction (“injunction hearing”), the respondent must provide the court with a completed firearm possession form. The court must verify the information on the firearm possession form and must make an inquiry on the record as to the contents of the firearm possession form. If the respondent is not present at the injunction hearing, the court must provide the person petitioning for the injunction (“petitioner”) with an opportunity to state whether he or she believes that the respondent possesses a firearm.

If the firearm possession form submitted to the court 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 must file the firearm possession form and, if a hearing to surrender firearms was scheduled by the court, dismiss the hearing. If the firearm possession form submitted to the court or the petitioner’s statement to the court indicates that the respondent possesses a firearm or if the court is not satisfied that the respondent does not possess a firearm, the court must schedule a hearing to surrender firearms to occur within one week of the injunction hearing.

If the respondent surrenders his or her firearm to another person under the conditions set forth in the bill or to the sheriff no later than 48 hours after the injunction hearing, the court must dismiss the hearing to surrender firearms unless the court has noted another reason that is relevant to the surrender of firearms that would require the hearing to occur.

If the court does not dismiss the hearing to surrender firearms, a respondent must attend the hearing to surrender firearms if the respondent did not appear at the injunction hearing or if the respondent wants to surrender his or her firearm to a person who did not appear with the respondent at the injunction hearing. The court must issue an arrest warrant for a respondent who fails to attend a hearing to surrender firearms that he or she is required to attend.

At the hearing to surrender firearms, the court must ensure that the respondent has completed a firearm possession form, must verify the information provided on the firearm possession form if the information was not previously verified by the court, must make an inquiry on the record as to the contents of the firearm possession form, and must permit the respondent to surrender his or her firearms to a person who is not the sheriff or order the respondent to surrender any firearm on the respondent's firearm possession form to a sheriff within 48 hours. If the respondent fails to comply with an order to surrender his or her firearms to a sheriff within 48 hours, the court must issue a warrant for the respondent's arrest.

The clerk of court or the Director of State Courts must develop a firearm possession form. Any information provided on the form by the respondent is subject to a penalty of false swearing. The firearm possession form must do all of the following:

- Require the respondent to list his or her name and address.
- Include space for the respondent's signature and date signed.
- Require the respondent to indicate whether he or she owns or possesses any firearm or has owned or possessed any firearm in the six 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.
- Give notice of the penalty for false swearing.

### **Assembly Amendment 1**

Under Assembly Amendment 1, if a respondent refuses to complete a firearm possession form or to respond to the court's inquiry regarding whether he or she possesses a firearm because the completed firearm possession form or response may incriminate him or her or subject him or her to a forfeiture or penalty, the court may order the respondent to complete the firearm possession form or respond to the inquiry. A completed firearm possession form or response compelled under a court order may not be used, directly or indirectly, against the respondent in a criminal case except to prosecute the respondent for perjury, contempt, or false swearing committed on the firearm possession form or in the response.

**Assembly Amendment 2**

Assembly Amendment 2 makes the following changes to the bill:

- Provides that, if the respondent is not present at the injunction hearing, the court may dismiss the hearing to surrender firearms if the petitioner states that the respondent does not possess a firearm and the court is satisfied that the petitioner does not possess a firearm.
- Provides that the respondent must attend the hearing to surrender firearms unless the hearing is dismissed.
- Requires the firearm possession form to state that any false information provided on the form may be subject to the penalty for false swearing.

**Assembly Amendment 3**

Under Assembly Amendment 3, a hearing to surrender firearms must occur within 14 days, instead of one week, of the injunction hearing.

**Legislative History**

Representatives Van Roy and Bernard Schaber offered Assembly Amendment 1. The Assembly Committee on Corrections and the Courts offered Assembly Amendment 2. Representative Bernard Schaber offered Assembly Amendment 3. On April 15, 2010, the Assembly adopted Assembly Amendments 1, 2, and 3 and passed Assembly Bill 559, as amended, on voice votes.

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