



Task Force on Domestic Violence and Firearm Surrender

Legislative report

Wilder Research

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Minnesota Department of Public Safety (DPS)
445 Minnesota St., Suite 2300
St. Paul, MN 55101
612-723-8635
Biiftuu.Adam@state.mn.us

<https://dps.mn.gov>

Lead authors: Melissa Serafin, Jennifer McCleary, Nora Johnson, and Julie Atella.

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Executive summary

Firearm surrender laws can be effective tools to prevent domestic violence, but their effectiveness relies on how statutes are written and the quality of implementation. During the 2024 Minnesota legislative session, state legislators passed an act requiring the creation of a task force called the Task Force on Domestic Violence and Firearm Surrender (the Task Force) to better understand existing surrender laws, identify best practices to ensure surrender and prioritize safety, and make policy and funding recommendations to the legislature.

While the Task Force identified a wide range of challenges, best practices, recommendations, and areas for future exploration, **this executive summary presents the top eight recommendations prioritized by the Task Force that balance impact with feasibility.** Additionally, this executive summary presents **all recommendations identified by the Task Force that would specifically require legislative changes.**

Top recommendations

- **Legislators should create a state board on firearm surrender**, with cross-sector representatives to lead and coordinate efforts to improve impact and streamline firearm surrender processes across all legal mechanisms and across Minnesota. Sectors that should be represented include domestic violence prevention advocacy organizations, law enforcement, judges, prosecutors, public defenders and defense attorneys, health care, and probation. Note that some subsequent recommendations in this report pertain specifically to this state board that would need to be created through legislative action.
- **The judicial branch, legal and advocacy organizations, law enforcement, and the future state board on firearm surrender should review and revise forms, documents, and guides regarding firearm surrender**, including developing and providing a written one-page guide regarding the surrender process. Ensure this information is provided to all subjects/defendants and describes the obligation to surrender, how to surrender, when to surrender by, and the penalties for failing to surrender. Standardize forms, documents, and guides as much as possible across jurisdictions and across legal mechanisms used to require surrender. Ensure forms, documents, and guides are available online in a centralized location, available in languages other than English, are written in clear and simple language, and allow space to document all firearms owned by subject/defendant.
- **The future state board on firearm surrender should conduct an assessment of law enforcement and court data systems.** This should involve examining how information pertaining to convictions, surrender orders, conditions of release, and probation conditions are collected and stored; how they are shared with law enforcement; and the extent to which this information is updated on an on-going basis. Identify barriers that prevent efficient entry and use of these data and recommend ways to streamline processes and ensure information is as accessible as possible, particularly across jurisdictions, and entered into all relevant databases in a timely manner (e.g., NICS).
- **Legislators should eliminate distinctions between different types of firearms** (e.g., pistols, long guns). All firearm-related statutes should pertain to all types of firearms. Some statutes only pertain to the firearm used in the corresponding incident, but individuals should be ordered to surrender all firearms.

- **In collaboration with the judicial branch, law enforcement, and the future state board on firearm surrender, legislators should clarify and align surrender procedures across all statutes**, including delegating responsible parties for specific tasks, communicating requirements to subjects/defendants, steps for ensuring law enforcement receives surrender orders in a timely manner, how and when subjects/defendants should surrender firearms, where they should surrender firearms, penalties for failure to comply, and steps to complete proofs of transfer and affidavits. This should also involve requiring firearm surrender explicitly if someone becomes prohibited from possession.
- **The future state board on firearm surrender should assess the feasibility of creating a database regarding firearm surrender** and prohibited possession and combining multiple data sources to expand analysis opportunities. This should include ways to standardize data collection and reporting processes across jurisdictions. Consider human subjects protections, firearms rights, and data privacy.
- **Law enforcement should ensure that all third parties and people seeking the return of their firearms after a prohibition period ends are eligible to possess firearms** (i.e., complying with permit-to-purchase laws that require conducting a background check).
- **Legislators should establish a statewide firearm surrender fund to reimburse law enforcement** on a per gun, per year basis; remove liability for firearm damage for all legal mechanisms used to order surrender; and remove the requirement for law enforcement to pay firearm owners for surrendered firearms at fair market value. This should also include creating clear guidelines regarding proper use of state funding for law enforcement storage of surrendered firearms. The future state board on firearm surrender should also explore the possibility of requiring law enforcement to accept surrendered firearms.

All legislative recommendations

Cross-sector collaboration and public awareness

- Create a state board on firearm surrender with cross-sector representatives to lead and coordinate efforts to improve impact and streamline firearm surrender processes across all legal mechanisms and across Minnesota. Sectors that should be represented include domestic violence prevention advocacy organizations, law enforcement, judges, prosecutors, public defenders and defense attorneys, health care, and probation. Note that some subsequent recommendations in this report pertain specifically to this state board that would need to be created through legislative action. See the [Recommendations from the Cross-sector collaboration and public awareness section](#) in the full report for more details about this recommendation.

Risk assessment

- As part of licensure or continuing education requirements, consider requiring training regarding the duty to warn and ERPO requirements for relevant health care providers. Training should consider domestic violence and mental health concerns and culture and language contexts.
- Require law enforcement to ask about alleged abusers' access to firearms when investigating domestic violence incidents and require courts to ask about alleged abusers' access to firearms in all cases involving domestic violence.

Provide legal guidance and advocacy support

- Increase funding for advocacy organizations to increase capacity and expand services, such as advocates responding to incidents in collaboration with law enforcement. Additionally, greater funding is needed to ensure legal and advocacy organizations are able to fulfill the other best practices and recommendations included throughout this report.
- As part of licensure or continuing education requirements, consider requiring training for prosecutors, public defenders, and defense attorneys. Trainings should raise awareness of all legal mechanisms for firearm surrender.

Petitions, court orders, and judicial processes

- As part of licensure or continuing education requirements, consider requiring training for judges regarding firearm surrender. Trainings should raise awareness of all legal mechanisms for firearm surrender and emphasize the importance of asking about firearm access and possession and explaining to subjects/defendants about all details related to the surrender order, including their obligation to surrender, how to surrender, the deadline, and penalties for failure to do so.
- Require all affidavits and proofs of transfer to be filed with law enforcement and the courts.

Service of process and firearm surrender and seizure

- In collaboration with the judicial branch, law enforcement, and the future state board on firearm surrender, legislators should clarify and align surrender procedures across all statutes, including delegating responsible parties for specific tasks, communicating requirements to subjects/defendants, steps for ensuring law enforcement receives surrender orders in a timely manner, how and when subjects/defendants should surrender firearms, where they should surrender firearms, penalties for failure to comply, and steps to complete proofs of transfer and affidavits. This should also involve requiring firearm surrender explicitly if someone becomes prohibited from possession.
- Revise statutes to require immediate surrender of firearms instead of longer periods of time, as many situations across legal mechanisms currently allow two or three business days.
- Require third-party transfers to occur at a law enforcement agency and require third parties to acknowledge their understanding of their responsibilities, complete a standardized surrender form, and face penalties if they allow the prohibited person to access the transferred firearm.
- Provide funding to ensure law enforcement has the capacity to conduct firearm seizures.
- Revise statutes such that possession of a firearm by a prohibited person would require arrest.

Storage

- Establish a statewide firearm surrender fund to reimburse law enforcement on a per gun, per year basis; remove liability for firearm damage for all legal mechanisms used to order surrender; and remove the requirement for law enforcement to pay firearm owners for surrendered firearms at fair market value. This should also include creating clear guidelines regarding proper use of state funding for law enforcement

storage of surrendered firearms. The future state board on firearm surrender should also explore the possibility of requiring law enforcement to accept surrendered firearms.

- Establish a statewide fund to reimburse firearms dealers (FFLs) on a per gun, per year basis and remove liability for firearm damage. The future state board on firearm surrender should explore the possibility of requiring FFLs to accept surrendered firearms, including requirements to notify law enforcement when firearms are surrendered.
- Implement a new process such that petitioners are served with affidavits and proofs of transfer, so that the petitioner is aware as quickly as possible.
- Create a centralized statewide storage facility for surrendered firearms.

Assessing compliance

- If compliance hearings are impractical due to judicial capacity concerns, legislators should consider requiring subjects/defendants to file an affidavit, and if these are not filed within the required amount of time, the penalty would be a compliance hearing. An alternative could also involve the legislature allocating funding for these positions.
- Revise statutes to require law enforcement to seize firearms from prohibited people who fail to comply with surrender requirements.

Firearm return

- Implement penalties for third parties who store surrendered firearms and allow access to the prohibited person.

Criteria for firearm surrender, violations, and penalties

- Eliminate distinctions between different types of firearms (e.g., pistols, long guns). All firearm-related statutes should pertain to all types of firearms. Some statutes only pertain to the firearm used in the corresponding incident, but individuals should be ordered to surrender all firearms.
- Revise statutes such that people who become prohibited from firearm possession are also explicitly required to surrender their firearms.
- Revise statutes to include offenses that currently don't require firearm surrender but would benefit from the option of firearm surrender orders (e.g., misdemeanor assaults, even if they don't involve firearms; DANCOs or HROs; violations of DANCOs or HROs), as defendants aiming to avoid surrender sometimes plead to offenses that do not prohibit possession. The legislature could also enact a statutory provision to allow the court to make findings regarding the relevant domestic relationship to trigger a surrender order. However, consider victims/survivors who wish to avoid firearm surrender orders (e.g., allowing prosecutor discretion to ask victims/survivors about their preferences).
- Align penalties for violations across statutes, including strengthening the penalty for violating an ERPO from a misdemeanor to at least a gross misdemeanor.
- Implement penalties for failures to file affidavits and proofs of transfer.

Background

During the 2024 Minnesota legislative session, state legislators passed an act requiring the creation of a task force called the Task Force on Domestic Violence and Firearm Surrender (the Task Force; see the Appendix for the legislative language). As part of this act, the Task Force was required to review existing laws that require firearm surrender; identify best practices to ensure surrender and prioritize the safety of peace officers, victims, and others; identify policies and procedures that reduce the danger to peace officers and other emergency responders; and make policy and funding recommendations to the legislature. The Minnesota Department of Public Safety (DPS) contracted with Wilder Research (Wilder) to address these mandates, and this report summarizes the work of this task force.

DPS identified the Task Force members, and Task Force members elected chairs and co-chairs during the first meeting. Figure 1 presents the Task Force members and the role they fill as required by the legislature. The primary components of the work included:

- 6 Task Force meetings, in which members shared their experiences and observations, identified challenges, and suggested best practices and recommendations regarding domestic violence and firearm surrender.
- 15 one-on-one interviews with Task Force members and other key professionals in related sectors in Minnesota regarding their experiences and observations, challenges related to domestic violence and firearm surrender, and suggestions for best practices and recommendations.
- A literature review of existing sources regarding domestic violence and firearm surrender, with a focus on best practices.
- A review of Minnesota statutes regarding domestic violence and firearms.
- A review and analysis of existing data regarding domestic violence and firearm surrender in Minnesota.

This report summarizes the findings from these components, with a focus on input from Task Force members and the sectors they represent. This report is organized by topic area, but some ideas pertain to multiple topics. It also includes recommendations for next steps.

1. Members of the Domestic Violence and Firearm Surrender Task Force

Required role	Member
Commissioner of Public Safety or a designee	Colleen Myhre
Director of the Missing and Murdered Indigenous Relatives Office or a designee	Ana Negrete ^a
Chief Justice of the Supreme Court or a designee	Judge Jean Burdorf
State public defender or a designee	Doug Carlson
County attorney appointed by the Minnesota County Attorneys Association	Jenna Peterson
Appointee by the Minnesota Indian Affairs Council	White Earth Nation’s Secretary-Treasurer Michael LaRoque ^b
Peace officer appointed by the Minnesota Chiefs of Police Association	Chief Brady Juell
Peace officer appointed by the Minnesota Sheriffs’ Association	Sheriff Kyle Burton
Appointee by Violence Free Minnesota	Executive Director Guadalupe Lopez
Appointee by the Minnesota Coalition Against Sexual Assault	Shaunta McGee; Kate Hannaher ^a
Appointee by the Gun Violence Prevention Law Clinic at the University of Minnesota Law School	David Lamb

Note. The opinions and votes expressed by Task Force members are their own and do not necessarily reflect the opinions or position of the organizations for which they work (or any other organization with which members are affiliated).

^a Served partial terms due to position changes.

^b Appointment occurred in October 2024.

Terminology

Due to the complex nature of this work, the following definitions provide context to the report.

Abuser: An individual who abuses another person.

Defendant: An individual who has been accused of committing a crime. Additionally, this may also refer to an individual when civil relief is sought against them.

Extreme Risk Protection Order (ERPO): A court order that prohibits someone from owning or purchasing a firearm due to risk of harming themselves or someone else.

Federal Firearms Licensee (FFL): Firearms dealers that are licensed by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF).

Lethality assessment: A tool used to assess the risk of harm that an abuser poses to another person, often within the context of domestic violence.

National Instant Criminal Background Check System (NICS): FBI database containing information regarding people who are prohibited from possessing firearms.

Order for Protection (OFP): A court order intended to protect individuals from abuse or violence at the hands of another person.

Perpetrator: An individual who causes harm or commits a crime.

Petitioner: A person who requests a court order (e.g., ERPO, OFP). When an individual has concerns about self-harm or themselves harming others, they may be both the ERPO petitioner and the ERPO subject.

Record Management System (RMS): Software programs that allow law enforcement to enter, manage, and retrieve data related to law enforcement records.

Subject or respondent: Subject of a court order who is at risk of harming themselves or others (e.g., ERPO, OFP).

Survivor: An individual who has experienced domestic abuse or otherwise has been victimized by another person. Some people prefer “survivor” instead of “victim” to convey a sense of empowerment, such that the individual survived despite significant harm or trauma.

Victim: An individual who has experienced domestic abuse or otherwise has been victimized by another person. This term includes individuals who were killed due to domestic violence. In legal proceedings, this term specifically refers to someone who has been subjected to a crime.

Firearms and domestic violence in Minnesota

Domestic violence is a significant concern in Minnesota. In 2023, 15,975 domestic violence offenses were committed, including murders, assaults, criminal sexual conduct, harassment, and stalking (Minnesota Bureau of Criminal Apprehension, 2024). In 2022, there were 361 inpatient or emergency department visits due to intimate partner violence (Minnesota Department of Health [MDH], 2024a). Between 2013 and 2023, there were 214 intimate partner homicides (Figure 2; Violence Free Minnesota, 2014-2024). Domestic violence disproportionately affects Black, Indigenous, and People of Color (BIPOC) communities, particularly Black and Native women, as well as LGBTIA+ people (Violence Free Minnesota, 2018; Violence Free Minnesota, 2024).

Domestic violence also affects people beyond intimate partners themselves. For example, between 2013 and 2023, at least 52 people died while witnessing or attempting to intervene in a domestic violence incident, and at least 399 children lost parents or guardians due to domestic violence (Violence Free Minnesota, 2014-2024).

While domestic violence perpetrators may use different types of weapons, firearms are particularly fatal and commonly used. Of the 214 intimate partner homicides between 2013 and 2023, 48% were committed using a firearm (Violence Free Minnesota, 2014-2024).

Katie's story

Katie Ann Fredrickson, 34, was shot and killed by her boyfriend, Michael Klinger, 36, in her Brooklyn Center home on July 30, 2022. Despite Klinger's status as legally prohibited from possessing firearms and multiple previous convictions of illegal firearm possession between 2006 and 2015, he was still able to obtain multiple firearms and use a firearm to commit intimate partner homicide.

Witnesses in the home overheard the couple arguing with each other on the afternoon of July 30th before hearing three gunshots. Klinger fled the scene after killing Katie. Days before Katie's murder, he shot and killed another ex-girlfriend's dog in an attempt to intimidate and coerce her.

Klinger was later arrested by law enforcement, and he was found with a handbag with four firearms. Klinger pled guilty to second-degree murder for Katie's death and an illegal weapons charge for the dog's death. He was sentenced to 40 years in prison.

Katie Ann Fredrickson leaves behind one minor son.

Adapted from Violence Free Minnesota's 2022 Homicide Report.

2. Intimate partner murders in Minnesota, 2013-2023

Intimate partner murders	% (N)
Cause of death	% (N=214)
Firearm	48%
Stabbing	16%

Intimate partner murders	% (N)
Strangulation	14%
Beating	11%
Vehicular homicide	2%
Substance-facilitated homicide	1%
Other or unknown	9%
Documented history of violence	% (N=214)
Documented history of violence	49%
History of violence without documentation	15%
Unknown	36%
Relationship status between victim and abuser	% (N=214)
Victim was separated or attempting to leave	40%
Victim and abuser were together or relationship status unknown	60%
Bystander/intervenor deaths	52
Children who lost a parent/guardian	399
Victims who were parents	116

Source. Violence Free Minnesota.

Firearm surrender as a tool to prevent domestic violence

Existing research indicates that prohibiting firearm possession among perpetrators of violence can reduce firearm violence and injuries, including intimate partner violence (Díez et al., 2017; Neufeld et al., 2022; Siegel & Boine, 2019; Vittes et al., 2013; Wallace et al., 2021; Webster & Wintemute, 2015; Zeoli et al., 2016).

Furthermore, laws specifically requiring firearm surrender from individuals who have perpetrated domestic violence are associated with reductions in hospitalization rates, and survivors/victims of domestic violence report feeling safer after firearms are removed from their abusers (Neufeld et al., 2022; Siegel & Boine, 2019; Vittes et al., 2013). Firearm possession prohibitions are most effective at preventing intimate partner violence when they include relinquishment provisions and clear instructions to courts, law enforcement, petitioners, and offenders (Zeoli, 2018).

Perpetrators of domestic violence often have a documented history of violence, including 49% of the 214 intimate partner homicides that occurred in Minnesota between 2013 and 2023 (Violence Free Minnesota). Almost a quarter of women who are domestic violence survivors (24%) report their partners have illegal access to firearms (Zeoli, 2024). According to one study, one in ten American adults have experienced some form of nonfatal firearm abuse, and victims/survivors are more likely to have experienced other forms of domestic violence (Adhia et al., 2021).

Other types of firearm violence

While this Task Force and report focuses on domestic violence, firearms play a significant role in suicides and homicides not related to domestic violence. Accordingly, robust and effective surrender policies and procedures also support suicide and homicide prevention.

About 60% of the 26,000 firearm deaths every year in the United States are suicides (Everytown for Gun Safety, 2024b). Approximately half of all completed suicides involve firearms (Kaczkowski et al., 2023). Firearm mortality, particularly suicide deaths by firearms, has been steadily increasing in Minnesota since 2000 (MDH, 2024b). Between 2018 and 2021, 73% of all firearm deaths were suicides, which represents a 13% increase over those years. While access to quality mental health services is an essential factor for reducing suicide, access to firearms is also an important risk factor for suicide completion (Swanson, 2020). Most people who attempt suicide survive, but only 10% of those who use a firearm survive. Men, who have much higher rates of suicide completion than women, are also more likely to be firearm owners and to use a firearm for suicide.

Of the 561 firearm deaths in Minnesota in 2022, 143 were homicides (Center for Gun Violence Solutions, 2024). Gun violence in Minnesota disproportionately affects Black and Indigenous communities; for example, Black people in Minnesota are 23 times more likely to die by gun violence than white people.

Mechanisms to order firearm surrender in Minnesota

There are several criminal and civil mechanisms for ordering firearm surrender in Minnesota. State statutes are complicated, and there are many factors that impact how prohibited possession and firearm surrender function (e.g., plea deals for crimes that would have otherwise met the criteria for surrender; different surrender requirements for situations in which courts find evidence of imminent risk of harm in OFPs or harassment or stalking convictions; some statutes pertain only to certain types of firearms [e.g., pistols, long guns, antiques]). Accordingly, this section provides a summarized overview of related statutes, but it is not comprehensive, and it is not intended to provide legal guidance.

Mechanisms for firearm surrender include:

- **Extreme risk protective orders (ERPOs, §624.7171):** Law enforcement, city or county attorneys, family or householder members, and guardians may petition for prohibited possession and firearm surrender for individuals who are at risk of harming themselves or others. Additionally, an individual who violates an ERPO is prohibited from possession for five years (§624.7177, subd. 2).
- **Orders for protection (OFPs, §518B.01, subd. 4):** Individuals who experience domestic abuse may petition for an order for protection. OFPs may include prohibited possession and firearm surrender if: 1) the order prohibits the subject from harassing, stalking, threatening, or other behavior that causes reasonable fear of harm to the petitioner, and 2) the court finds that the subject poses a credible threat to the petitioner's safety or prohibits the subject from using, attempting, or threatening physical force against the petitioner (§518B.01, subd. 6(g)). Additionally, an individual who violates an OFP and uses a firearm during the violation is required to surrender the firearm they used and may be prohibited from possession for three years or longer. An individual who violates an OFP and did not use a firearm during the violation is

prohibited from possessing a pistol (i.e., excludes other types of firearms) for three years but is not explicitly required to surrender firearms.

- **Crimes against family or household member convictions** (§609.2242, subd. 3): Includes a specific set of domestic assault offenses committed against a family or household member (as defined in §518B.01, subd. 2). If a firearm was used in the crime, the perpetrator is required to surrender their firearms. The court may also prohibit possession.
- **Harassment or stalking convictions** (§609.749, subd. 8): Individuals who are convicted of harassment or stalking and used a firearm in the crime are required to surrender their firearms and may be prohibited from possession.
- **Crimes against person pretrial release** (§629.715): After an individual is arrested for a crime against persons, the judge may order firearm surrender as a condition of their release.

Surrender requirements vary by statute in several ways, including whether the person is required to surrender all of their firearms or only the one used in the offense, whether the subject/defendant is required to file an affidavit or proof of transfer, whether law enforcement agencies are required to accept surrendered firearms, and whether law enforcement is required to provide payment in exchange for the firearm.

Additionally, there are situations in which someone becomes prohibited from possessing a firearm but there is no requirement to explicitly order firearm surrender, including when someone is convicted of a crime of violence (624.713, subd. 1(2)).

Lastly, some domestic violence-related convictions don't cause prohibited possession or firearm surrender, such as domestic abuse no contact orders (DANCOs; §629.75) and harassment restraining orders (HROs; §609.748).

Firearm surrender implementation

Existing research highlights how implementation of firearm surrender laws is often insufficient (RAND, 2024).

Echoed by task force members, implementation challenges include:

- Lack of awareness or familiarity with firearm surrender laws. For example, judges may not realize statutes require relinquishment (instead, they assume statutes allow or recommend relinquishment; Everytown for Gun Safety, 2019) or may fail to discuss or order surrender even when statutes require surrender (Everytown for Gun Safety, 2019; Kafka et al., 2022).
- Lack of clear procedures for firearm surrender and enforcement, and gaps in monitoring mechanisms to assess compliance (Frattaroli et al., 2021; Keck et al., 2021; RAND, 2024).
- Lack of evidence-based techniques and consistent training for law enforcement officers tasked with firearm dispossession (Blackwatters et al., 2023).
- Lack of data tracking and documentation, including whether firearms were surrendered (Rakshe et al., 2024).
- Statutes often rely on the subject/defendant to disclose possession or access to firearms (Battered Women's Justice Project, 2022).
- Implementation of surrender and prohibitions varies widely across jurisdictions, and implementation depends on multiple factors, such as funding, differences in judicial decision-making, and location (i.e., urban v. rural; Ellyson et al., 2023).

Challenges, best practices, recommendations, and areas for future exploration

This section presents the ideas identified and discussed by the Task Force, organized by topic area, including:

- Challenges that impede firearm surrender processes
- Best practices that can be implemented at any time by individual professionals or agencies to improve firearm surrender processes relatively quickly
- Recommendations for broader solutions that require high-level action, such as changing legislation, designating funding, or conducting statewide assessments of various topics regarding firearm surrender
- Areas for future exploration that need greater understanding before making a recommendation

The best practices and recommendations sections also include any relevant citations of existing literature that provide support for each idea (titled “supporting literature”). Additional suggestions from secondary sources are also included at the end of each topic’s section in separate callout boxes.

The following icons indicate the relevant sector for each recommendation and best practice:



Judicial branch



Law enforcement



Legal and domestic violence prevention advocacy organizations



Legislators



Probation



Prosecutors



Public defenders and defense attorneys



Future state board on firearm surrender (the state board)

Cross-sector collaboration and public awareness

Challenges

- Firearm surrender involves multiple sectors, and the process can be complicated and vary by jurisdiction and agency.
- There is a lack of awareness among the general public and limited training about firearm surrender options and related processes across all sectors involved in firearm surrender.
- There is limited and disjointed available data about firearm surrenders.

Recommendations



Legislators should create a state board on firearm surrender, with cross-sector representatives to lead and coordinate efforts to improve impact and streamline firearm surrender processes across all legal mechanisms and across Minnesota. Sectors that should be represented include domestic violence prevention advocacy organizations, law enforcement, judges, prosecutors, public defenders and defense attorneys, health care, and probation. Note that some subsequent recommendations in this report pertain specifically to this state board that would need to be created through legislative action.

Supporting literature: California Department of Justice, 2024; Choi et al., 2017; Consortium for Risk-Based Firearm Policy, 2020; Everytown, 2024a; Long, 2015; National Council of Juvenile and Family Court Judges, 2022a; New York State Unified Court System, 2020; Parsons et al., 2023; University of Michigan Institute for Firearm Injury Prevention, 2023; Zeoli, 2018



A state board could:

- Provide support and technical assistance to local jurisdictions regarding implementing firearm surrender processes.
- Align data practices, implement new data collection procedures, and conduct data analysis and reporting to monitor and improve understanding of firearm surrender implementation, identify challenges, and strategize opportunities to improve effectiveness.
- Secure funding to support firearm surrender initiatives.
- Analyze impacts on specific populations (e.g., communities of color) and evaluate outcomes.
- Collect, develop, standardize, and distribute training opportunities and materials for multiple sectors, including law enforcement, judges and judicial staff, prosecutors, defense attorneys and public defenders, victim/survivor advocates, health care providers, and probation officers. Trainings should consider domestic violence and mental health concerns and culture and language contexts. They should raise awareness of all legal mechanisms for firearm surrender and emphasize the importance of asking about firearm access and possession and explaining to subjects/defendants about all details related to the surrender order, including their obligation to surrender, how to surrender, the deadline, and penalties for failure to do so.
- Facilitate cross-sector relationships and encourage buy-in from stakeholders.
- Learn from and share information and resources with other state-level groups focused on firearm surrender.
- Make on-going legislative recommendations to improve firearm surrender processes.
- Raise awareness of avenues for firearm surrender among the general public, health care providers, domestic violence prevention advocates, legal justice system staff, and other key stakeholders.

Suggested recommendations from secondary sources



Legislators should ensure legislation is as specific and detailed as possible regarding who is responsible for each aspect of implementation and enforcement, their authority, how professionals in each implicated role should be trained, and any related processes or procedures that need to be followed (University of Michigan Institute for Firearm Injury Prevention, 2023; Zeoli, 2018).

Incident response

Challenges

- Victims/survivors may have concerns about disclosing information and may be hesitant to identify as a victim/survivor.
- Previous negative experiences or perceptions of law enforcement among both subjects/defendants and victims/ survivors may prevent disclosure of information and cooperation with surrender orders. This is especially true for Black, Indigenous, and People of Color (BIPOC) who have historically had strained relationships with criminal justice and other social service systems.
- Law enforcement officers and legal personnel find it challenging to balance individual rights to privacy with the search and seizure of firearms under protection orders.

Best practices



Law enforcement should collect as much information as possible when responding to domestic violence incidents, including taking photos of the incident scene, collecting statements as detailed as possible from as many people as possible, interviewing witnesses and victims/survivors separately, and asking specifically about weapons involved or weapons accessible to the alleged abuser. Remember that even if a weapon wasn't used in the incident, the information given about an incident can still be helpful when making a case for a firearm surrender order.

Supporting literature: Mitchell, 2022; National Council of Juvenile and Family Court Judges, 2022b



Law enforcement and legal and advocacy organizations should collaborate closely, as they may have different information regarding firearm risk.



Law enforcement should build relationships with legal and advocacy organizations that focus on specific tribal, racial, ethnic, or cultural communities, such as the Missing and Murdered Indigenous Relatives Office and the Missing and Murdered African American Women Task Force, and develop culturally grounded best practices for incident responses.

Recommendations



The future state board on firearm surrender should assess data collection processes and databases to ensure as much information is available to law enforcement as possible (e.g., whether someone is prohibited from possession, conditions of release, whether someone has been found incompetent to stand trial), while accounting for data privacy regulations.

Suggested best practices from secondary sources



Law enforcement should connect victims/survivors with safety planning and legal assistance to ensure awareness of available firearms protections (Mitchell, 2022).

Risk assessment

Challenges

- There is not a consistent and reliable source of information regarding firearms and firearm ownership (e.g., database of purchased firearms).
- Victims/survivors may have concerns about disclosing information and may be hesitant to identify as a victim/survivor.
- Previous negative experiences or perceptions of law enforcement among victims/survivors may prevent disclosure of information and cooperation, especially for BIPOC individuals.
- There is a lack of awareness among mental health and other health care providers regarding duty to warn and mental health providers' responsibility to make a recommendation regarding seeking ERPOs.

Best practices



The judicial branch and law enforcement should prioritize protecting victim/survivor confidentiality and avoid placing the responsibility on victims/survivors to demonstrate risk as much as possible.

Supporting literature: Mitchell, 2022



Law enforcement should consistently use lethality assessments to capture information about the individual's access to firearms, which may not be captured in incident reports.

Recommendations



The future state board on firearm surrender should identify and promote best practices for lethality assessment questions and procedures (e.g., the risk factors to ask about, ensuring victim/survivor confidentiality, allowing victims/survivors to make an informed decision about disclosing information), while prioritizing cultural and linguistic relevancy. Utilize existing resources such as the [Domestic Violence Risk Assessment Bench Guide](#) (PDF file will download).



As part of licensure or continuing education requirements, legislators should consider requiring training regarding the duty to warn and ERPO requirements for relevant health care providers. Trainings should consider domestic violence and mental health concerns and culture and language contexts.

Supporting literature: Conrick et al., 2023; Gause et al., 2022



The future state board on firearm surrender should identify and address barriers that prevent lethality assessments from occurring or from being reviewed by the courts.



Legislators should require law enforcement to ask about alleged abusers' access to firearms when investigating domestic violence incidents and require courts to ask about alleged abusers' access to firearms in all cases involving domestic violence.

Supporting literature: Zeoli, 2018

Suggested best practices from secondary sources



Legal and advocacy organizations can also develop an instrument with questions staff can use with victims/survivors to assess risk and create a safety plan (Battered Women's Justice Project, 2022). These questions should include information about the firearms available to the perpetrator (e.g., location, make, model) and the survivor's/victim's perceptions and concerns pertaining to firearm access and use.



Law enforcement should implement a process for following up on reports from the FBI that a prohibited possessor attempted to purchase a firearm to assess the individual's risk of future violence (Everytown, 2024a).

Provide legal guidance and advocacy support

Challenges

- There are several criminal and civil actions that can be taken in response to mental health crises or domestic violence incidents or concerns, and statutes and legal processes are complex and difficult to understand.
- Prosecutors sometimes strike plea deals in which offenders charged with offenses that qualify for firearms surrender (and where strong evidence of guilt exists) plead to lesser offenses that do not qualify despite the remaining firearm risk.
- Defendants facing charges whose conviction would result in them surrendering their firearms may be unaware of the surrender laws, including the fact that conviction would require surrender, how long the surrender would last, and what the penalties would be if they fail to surrender their firearms post-conviction.

Best practices



Law enforcement and legal and advocacy organizations should explain that there are multiple avenues to obtain a firearm surrender order to victims/survivors, including options that don't require a criminal case (and thus wouldn't require the victim/survivor to work with law enforcement; e.g., orders for protection). Ensure the victim/survivor has enough information about their options to make an informed decision.

Supporting literature: Battered Women's Justice Project, 2024a



Law enforcement and legal and advocacy organizations should remember that there are often multiple incidents that occur before the one that prompts the call to law enforcement, it may take time for victims/survivors to disclose information, and victims/survivors need safe opportunities to disclose information.



The judicial branch and legal and advocacy organizations should emphasize to victims/survivors that they can't assume the court is aware of all proceedings that pertain to the alleged abuser, and that they should include all information they have in their petition, including information about the firearm(s) accessible to the abuser, as well as other proceedings in criminal court, civil court, or mental health court.



Law enforcement, legal and advocacy organizations, and prosecutors should continue to ask victims/survivors about firearm risk on an on-going basis, as it can take time to develop rapport and trust and victims/survivors may not immediately disclose information.



Law enforcement, legal and advocacy organizations, and prosecutors should remind victims/survivors of their rights to share information with the abuser's probation officer. However, remember that probation officers are unable to share information with advocacy organizations or other parties.



Public defenders and defense attorneys should educate clients facing charges for qualifying offenses about how to surrender their firearms, the effect a conviction will have on their ability to possess firearms, and the penalties they will face if they are found to have failed to surrender their firearms after their conviction.



Law enforcement and legal and advocacy organizations should consider sharing data regarding the safety risks of firearm access or possession among people with histories of domestic violence, as appropriate, to ensure victims/survivors understand the risks of abusers possessing or accessing firearms.

Recommendations



Legislators should increase funding for advocacy organizations to increase capacity and expand services, such as advocates responding to incidents in collaboration with law enforcement. Additionally, greater funding is needed to ensure legal and advocacy organizations are able to fulfill the other best practices and recommendations included throughout this report.



As part of licensure or continuing education requirements, legislators should consider requiring training for prosecutors, public defenders, and defense attorneys. Trainings should raise awareness of all legal mechanisms for firearm surrender.

Suggested best practices from secondary sources



In situations in which firearm surrender orders are discretionary, legal and advocacy organizations and prosecutors should understand and communicate the circumstances in which the court is likely to order surrender (Battered Women’s Justice Project, 2024a). Ensure the victim/survivor understands and is able to explain the relevant reasons necessitating surrender, in case they need to do so as part of court proceedings. Communicate potential steps after an order has been issued, such as modifications, dismissals, and reapplying. Advise victims/survivors to keep a copy of the order with them until it expires (Battered Women’s Justice Project, 2022).



The judicial branch and legal and advocacy organizations should ensure information about the risk of firearms pertaining to domestic violence, the specific types of relief survivors/victims can petition for, and how to request each type of relief is readily available, is translated into multiple languages, and is culturally appropriate (Battered Women’s Justice Project, 2022). Fully inform petitioners of processes and remedies to empower them to decide what kind of injunction to pursue and whether to report firearm possession (Long, 2015).



Legal and advocacy organizations and prosecutors should encourage victims/survivors to report all evidence of allegations in petitions and criminal proceedings that they are comfortable providing, such as photographs of injuries, text messages or social media posts, and police reports (Battered Women’s Justice Project, 2022).



The judicial branch, legal and advocacy organizations, and prosecutors should communicate how the survivor/victim could request enforcement assistance if the perpetrator violates a surrender order and the potential consequences the perpetrator might face (Battered Women’s Justice Project, 2024a).



Legal and advocacy organizations and prosecutors should provide assistance regarding the process of finding and obtaining legal representation and the petition process, including what to wear, how to address the judge, organizing and presenting information relevant to the petition, and obtaining and completing paperwork (Battered Women’s Justice Project, 2022).



Legal and advocacy organizations and prosecutors should connect individuals and families to other resources and social services they may benefit from, such as services related to housing, employment, and financial support (Consortium for Risk-Based Firearm Policy, 2020; Parsons et al., 2023; University of Michigan Institute for Firearm Injury Prevention, 2023).

Petitions, court orders, and judicial processes

Challenges

- Not all firearm surrender order mechanisms include a requirement to file an affidavit or proof of transfer.
- There is a lack of a centralized database of all petitions, affidavits, and proofs of transfer.
- There is inconsistency in the judicial processes across judges and courts, including by county.
- The existing checkbox on transfer orders that requires local law enforcement to immediately seize firearms is ineffective because law enforcement would need a search warrant to search for and seize firearms.

Best practices



In any plea deal regarding charges for a qualifying offense, judges and prosecutors should weigh the risk of leaving firearms in the hands of domestic abusers that surrender laws target. If they drop charges for qualifying offenses in a plea deal, they should strongly consider including a requirement in the deal that the defendant surrenders their firearms for the period that would have been required under the qualifying statute.



Upon issuing a surrender order, courts should inform subjects/defendants about their obligation to surrender firearms, specific acts they are prohibited from doing (e.g., purchasing a firearm), how and where to surrender firearms, deadline for surrender, and the penalties for failing to surrender. This information should be provided orally and in writing. The written version should use plain language and be available in multiple languages.

Supporting literature: Battered Women's Justice Project, 2022; Battered Women's Justice Project, 2024b; Carey et al., 2024; National Council of Juvenile and Family Court Judges, 2022a

Recommendations



As part of licensure or continuing education requirements legislators should consider requiring training for judges regarding firearm surrender. Trainings should raise awareness of all legal mechanisms for firearm surrender and emphasize the importance of asking about firearm access and possession and explaining to subjects/defendants about all details related to the surrender order, including their obligation to surrender, how to surrender, the deadline, and penalties for failure to do so.



The judicial branch and the future state board on firearm surrender should review and standardize all forms related to firearm surrender orders across the state, including petitions, proofs of transfer, and affidavits regardless of the legal mechanism used to justify the order. Ensure they are simple to complete, written in plain language, easy to understand, available in languages other than English, available in paper and online formats, and ask for sufficient details (e.g., instances in which the individual

threatened to use their firearm, information about specific firearms and their location). Utilize existing examples from other jurisdictions

<https://www.courts.wa.gov/forms/?fa=forms.contribute&formID=95>) as models.

Supporting literature: Battered Women’s Justice Project, 2022; Everytown, 2024a; Mitchell, 2022; New York State Unified Court System, 2020; Parsons et al., 2023



The future state board on firearm surrender should conduct an assessment of law enforcement and court data systems. This should involve examining how information pertaining to convictions, surrender orders, conditions of release, and probation conditions are collected and stored; how they are shared with law enforcement; and the extent to which this information is updated on an on-going basis. Identify barriers that prevent efficient entry and use of these data and recommend ways to streamline processes and ensure information is as accessible as possible, particularly across jurisdictions, and entered into all relevant databases in a timely manner (e.g., NICS).

Supporting literature: Carey et al., 2024; Consortium for Risk-Based Firearm Policy, 2020; Mitchell, 2022



Legislators should require all affidavits and proofs of transfer to be filed with law enforcement and the courts.

Suggested best practices from secondary sources



The judicial branch should establish protocols for searching sources to obtain information regarding firearms, firearm possession, and firearm-related risk (e.g., petitions, victim/survivor interviews, police reports, docket information from previous court cases and/or criminal history reports, state carry permit system, family court records, order of protection; Battered Women’s Justice Project, 2022; Carey et al., 2024; Mitchell, 2022; New York State Unified Court System, 2020; Zeoli, 2018).



The judicial branch should prioritize responsiveness to NICS staff requests for information as part of background checks (Battered Women’s Justice Project, 2022; Everytown, 2024a; Mitchell, 2022).



The judicial branch should designate specific courts and judges for firearm surrender cases to ensure expertise and consistency (Carey et al., 2024; Parsons et al., 2023).



The judicial branch should hear ex parte petitions as immediately as possible and explore ways to process temporary petitions filed after hours (e.g., virtual conferencing; Carey et al., 2024; Parsons et al., 2023).



The judicial branch should notify petitioners and relevant family members, partners, or friends near the date of the expiration of the order, and information should be provided regarding the order extension process (Carey et al., 2024).

Service of process and firearm surrender and seizure

Challenges

- Subjects/defendants may not know how to surrender their weapons or the consequences of failing to do so.
- There is a lack of consistent surrender procedures.
- Law enforcement and Federal Firearms Licensees (FFLs) are not required to accept surrendered firearms in all situations. For example, while law enforcement is required to accept surrendered firearms by ERPO subjects, they are not required to accept surrendered firearms by OFP subjects (§624.7175; §518B.01, subd. 6(g)).
- Some firearm surrender laws in Minnesota allow the subject/defendant to transfer their firearms to private third parties, which increases the likelihood that the prohibited person could access the firearm compared to surrendering to an FFL or law enforcement agency.

Best practices



Law enforcement should ensure that all third parties (e.g., family member, friend) are eligible to possess before completing a firearm transfer (i.e., complying with permit-to-purchase laws that require conducting a background check).



When possible, law enforcement should wait for the person to leave the house before seizing firearms (e.g., when they go to the grocery store).



Law enforcement should consider opportunities to seize firearms when an abuser is allowed to return to their residence to retrieve personal belongings with law enforcement (e.g., under an OFP, after being released from jail). However, note that transportation may pose a challenge if an individual has a large number of firearms.

Recommendations



In collaboration with the judicial branch, law enforcement, and the future state board on firearm surrender, legislators should clarify and align surrender procedures across all statutes, including delegating responsible parties for specific tasks, communicating requirements to subjects/defendants, steps for ensuring law enforcement receives surrender orders in a timely manner, how and when subjects/defendants should surrender firearms, where they should surrender firearms, penalties for failure to comply, and steps to complete proofs of transfer and affidavits. This should also involve requiring firearm surrender explicitly if someone becomes prohibited from possession.

Supporting literature: Carey et al., 2024; Mitchell, 2022; National Council of Juvenile and Family Court Judges, 2022a; New York State Unified Court System, 2020



The judicial branch, legal and advocacy organizations, law enforcement, and the future state board on firearm surrender should review and revise forms and other documents regarding firearm surrender, including developing and providing a written one-page guide regarding the surrender processes. Ensure this information is provided to all subjects/defendants and describes the obligation to surrender, how to surrender, when to surrender by, and the penalties for failing to surrender. Standardize forms, documents, and guides as much as possible across jurisdictions and across legal mechanisms used to require surrender. Ensure forms, documents, and guides are available online in a centralized location, available in languages other than English, are written in clear and simple language, and allow space to document all firearms owned by subject/defendant.



Legislators should revise statutes to require immediate surrender of firearms instead of longer periods of time, as many situations across legal mechanisms currently allow two or three business days.

Supporting literature: Carey et al., 2024; Ellyson et al., 2023; Mitchell, 2022



Legislators should require third-party transfers to occur at a law enforcement agency and require third parties to acknowledge their understanding of their responsibilities, complete a standardized surrender form, and face penalties if they allow the prohibited person to access the transferred firearm.

Supporting literature: Mitchell, 2022



Legislators should provide funding to ensure law enforcement has the capacity to conduct firearm seizures.



Legislators should revise statutes such that possession of a firearm by a prohibited person would require arrest.



The future state board on firearm surrender should explore the extent to which law enforcement is conducting firearm seizures, identify the barriers preventing seizures, and address barriers to ensure court orders are executed as intended.

Areas for future exploration



Legislators should explore potential changes to surrender orders to include ammunition, while considering how this requirement would increase burden for law enforcement (e.g., individuals with large amounts of ammunition).

Supporting literature: Battered Women's Justice Project, 2022



Legislators should consider potential effects of revising ERPO statute language to explicitly state that exigent seizures are still valid tools, as the current statute language states that a warrant is required to enter a home and remove firearms. While increasing opportunities for firearm seizure, this revision could have significant disparate impacts on communities of color.



Legislators should consider removing the third-party transfer option for firearm surrender orders.



The future state board on firearm surrender should explore implications of amending statutes to require individuals to surrender all firearms, regardless of their storage location, in the jurisdiction of their primary residence. These changes would aim to simplify requirements, reduce confusion, avoid straining relationships between law enforcement agencies, and reduce law enforcement burden, given that people may store firearms in other locations (e.g., hunting rifles in cabins).



The future state board on firearm surrender should explore the possibility and implications of a legislative change that would create a short order form to allow law enforcement to immediately serve an ERPO if they run an identity for a person with an unserved ERPO. While this would allow immediate action, law enforcement may have logistical concerns and concerns about lack of familiarity with the individual's level of risk and previous violent behavior.

Suggested best practices from secondary sources



Law enforcement agencies can create special units or identify specific and dedicated officers that focus on serving orders and ensuring surrender (Consortium for Risk-Based Firearm Policy, 2020; Everytown, 2024a; Parsons et al., 2023; University of Michigan Institute for Firearm Injury Prevention, 2023). These teams or officers should receive training on de-escalation and working with people in crisis and build strong partnerships with local social service agencies (Parsons et al., 2023). Similarly, some agencies may have existing social work positions, relationships with social services agencies, crisis intervention teams, or similar options for a social services professional to join police on calls to serve orders or remove firearms.



Law enforcement should consider engaging the subject's/defendant's friends or family prior to service and whether their presence would be beneficial for the subject/defendant and service process, if safe to do so (Parsons et al., 2023). Law enforcement can also share information with the subject's/defendant's support system that may be beneficial (e.g., social services available, firearm return process).



Law enforcement should obtain as much information about the subject/defendant before making contact to ensure safety (Parsons et al., 2023). This includes their attitudes toward law enforcement and government, whether other people or animals may be in the home that could impact the process, the subject's/defendant's typical daily routine and strategic times to contact them, their firearms and related information (e.g., whether they usually keep firearms loaded), and any other concerns about their behavior or attitudes that could interfere with the process.



Law enforcement should notify petitioners and victims/survivors regarding results of service and surrender orders (National Council of Juvenile and Family Court Judges, 2022a).

Suggested recommendations from secondary sources



The future state board on firearm surrender should identify and address barriers that prevent law enforcement who are serving orders from accessing all information they are legally allowed to access pertaining to the individual's firearms (e.g., carry permit databases, order petition) to help ensure the subject/defendant surrenders all of their firearms (Everytown, 2024a; Mitchell, 2022).



Legislators should require individuals to also surrender firearm permits, in addition to firearms, as permits can be used to demonstrate firearm possession eligibility (Battered Women's Justice Project, 2022; Everytown, 2024a).

Storage

Challenges

- Many law enforcement agencies have limited physical storage space available, particularly small agencies. Some individuals have large collections of firearms, posing a challenge for law enforcement and FFLs that store surrendered firearms.
- There is insufficient funding for firearm storage among law enforcement agencies and FFLs.
- Law enforcement agencies are required to pay fair market value payments when accepting surrendered firearms (as required in the ERPO statute).
- There are liability concerns among law enforcement and FFLs regarding maintaining stored firearms.

Recommendations



Legislators should establish a statewide firearm surrender fund to reimburse law enforcement on a per gun, per year basis; remove liability for firearm damage for all legal mechanisms used to order surrender; and remove the requirement for law enforcement to pay firearm owners for surrendered firearms at fair market value. Include clear guidelines regarding what state funding for law enforcement storage can be used for. Note that Minnesota currently provides grant funding that law enforcement agencies need to apply for and there will be more funds in the future. The future state board on firearm surrender should also explore the possibility of requiring law enforcement to accept surrendered firearms.



The future state board on firearm surrender should explore the barriers that prevent FFLs from accepting and storing surrendered firearms and identify and implement strategies for addressing concerns.



Legislators should implement a new process such that petitioners are served with affidavits and proofs of transfer, so that the petitioner is aware as quickly as possible.



Legislators should create a centralized statewide storage facility for surrendered firearms.

Suggested best practices from secondary sources



Law enforcement should charge storage fees as allowed by state statute to reduce cost burden to law enforcement agencies (Mitchell, 2022).



Law enforcement should consider partnerships with FFLs and gun ranges to increase storage space for surrendered firearms (Choi et al., 2017; Mitchell, 2022).

Assessing compliance

Challenges

- There is a lack of a centralized statewide database of people who have been ordered to surrender their firearms or are prohibited to possess firearms, including specific convictions, probation conditions, and conditions of release.
- Compliance relies on the individual to proactively surrender firearms and/or reporting from friends/family that the individual still possesses firearms, and not all firearm surrender orders require verification of surrender.
- There are limited policies and procedures to assess compliance with surrender orders.

Best practices



Law enforcement and probation officers should leverage opportunities for probation officers to assess compliance with firearm surrender orders, as they may have a positive relationship with the person on probation. Additionally, probation officers can authorize a search of a defendant's home without a warrant and on less than probable cause to enforce firearm possession prohibition (which is a standard term of probation). However, consider any legal limitations regarding probation officers' abilities to conduct a search of the client's home. Law enforcement and probation should work together to ensure probation officers have a strong understanding of their authority to seize firearms if the individual has been ordered to surrender.

Recommendations



The future state board on firearm surrender should assess law enforcement RMS systems to ensure they have a function that allows law enforcement to notify probation officers that they had contact with the individual on probation and whether the individual was found with a firearm.



The future state board on firearm surrender should conduct an assessment of how information is stored related to convictions, prohibited statuses, surrender orders, conditions of release, and probation conditions and identify ways to ensure information is as easily accessible as possible when law enforcement runs someone's identity, regardless of jurisdiction.



Courts should hold compliance hearings (handled by judges and judicial referees), and the subject/defendant should be required to attend the hearing, testify under oath that they have complied with the order, and produce the relevant affidavits demonstrating their compliance. Given that judicial capacity is likely a significant concern, legislators should consider requiring subjects/defendants to file an affidavit, and if these are not filed within the required amount of time, the penalty would be a compliance hearing. An alternative could also involve the legislature allocating funding for these positions.

Supporting literature: Battered Women’s Justice Project, 2022; Carey et al., 2024; Ellyson et al., 2023; Everytown, 2024a; Mitchell, 2022; National Council of Juvenile and Family Court Judges, 2022a; National Council of Juvenile and Family Court Judges, 2022b



Legislators should revise statutes to require law enforcement to seize firearms from prohibited people who fail to comply with surrender requirements.

Areas for future exploration



The future state board on firearm surrender and probation representatives should explore the possibility and implications of incorporating firearm surrender compliance checks as part of probation conditions and probation verification visits.

Suggested best practices from secondary sources



Law enforcement can engage the subject’s/defendant’s household members to confirm all firearms were surrendered, particularly in OFP cases where probation is not involved (Parsons et al., 2023).



Law enforcement can also conduct follow up visits to ensure individuals complied with firearm surrender requirements (Mitchell, 2022).



If firearms are surrendered as part of an ex parte order, the courts can also use the final ERPO hearing as a compliance hearing (Carey et al., 2024).

Recommendations from secondary sources



Legislators and the future state board on firearm surrender should create protocols for situations in which subjects/defendants fail to comply with surrender orders (Parsons et al., 2023).



Legislators and the future state board on firearm surrender should create protocols for situations in which the subject/defendant has access to firearms possessed by someone else (e.g., another household member; Parsons et al., 2023). This may involve requesting voluntary temporary storage in another location or using a lockable safe to limit access only to the firearm’s owner.

Firearm return

Challenges

- There is a lack of clear and consistent policies and procedures for returning firearms.

Best practices



Law enforcement should ensure that all people seeking the return of their firearms after a prohibition period ends are eligible to possess (i.e., complying with permit-to-purchase laws that require conducting a background check).

Supporting literature: Carey et al., 2024; Everytown, 2024a; Mitchell, 2022; National Council of Juvenile and Family Court Judges, 2022a

Recommendations



The judicial branch, law enforcement, and the future state board on firearm surrender should create clear procedures for firearm return, with a specific focus on firearms surrendered to third parties (e.g., family members).

Supporting literature: New York State Unified Court System, 2020



Legislators should implement penalties for third parties who store surrendered firearms and allow access to the prohibited person.



The future state board on firearm surrender should explore law enforcement concerns regarding liability due to a returned firearm (e.g., if the individual uses the returned firearm in a crime) and identify ways to minimize the potential of negligent returns while avoiding or removing civil liability.

Areas for future exploration



The future state board on firearm surrender should explore ideas for using firearm return as an incentive for receiving specific types of services, such as violence intervention programming or mental health services.



The future state board on firearm surrender should explore whether firearm return policies and procedures should differ depending on the type of firearm, specifically whether the requirements for returning a pistol should be stricter than the requirements for returning firearms meant for hunting.

Suggested best practices from secondary sources



In cases of temporary surrender, the judicial branch and law enforcement should share how the firearm return process works at the time of surrender and emphasize to subjects/defendants that surrender is temporary (Carey et al., 2024; Parsons et al., 2023).



The judicial branch and law enforcement should notify petitioners, victims/survivors, friends, and family members of impending order expiration and/or firearm return and provide information regarding filing for an extension (Consortium for Risk-Based Firearm Policy, 2020; Mitchell, 2022; National Council of Juvenile and Family Court Judges, 2022a).

Suggested recommendations from secondary sources



Legislators and the future state board on firearm surrender should develop protocols for firearm return (Carey et al., 2024; Parsons et al., 2023).



Legislators should require individuals to petition the court to return firearms after order or prohibited possession period ends (Mitchell, 2022; National Council of Juvenile and Family Court Judges, 2022a).



Legislators should require that the victim/survivor be given the opportunity to express concerns before firearm return (Battered Women’s Justice Project, 2024a).



Legislators should allow law enforcement to dispose of firearms after a reasonable time in all situations involving surrender (Carey et al., 2024).

Criteria for firearm surrender, violations, and penalties

Challenges

- It is not a crime to violate a condition of release, and conditions of release can include firearms-related restrictions.
- Subjects of OFPs only become ineligible to possess a firearm after a hearing (thus they may still possess a firearm after a petition is filed). Changing this statute would likely be legally challenged and deemed unconstitutional.
- Penalties for violating firearm surrender orders vary depending on the statute.
- There is a specific definition of “conviction” that excludes offenses that would otherwise require firearm surrender (e.g., stays of adjudication).
- Current statutes target pistols and semiautomatic military-style assault weapons and exclude hunting rifles and shotguns.
- There is not currently a penalty for failing to file affidavits or proofs of transfer.

- There should be a clear link between a subject’s/defendant’s mental health status and risk of harm to meet criteria for a mental health hold.
- Not all statutes that prohibit possession/purchase of a firearm require firearm surrender specifically.

Recommendations



Legislators should eliminate distinctions between different types of firearms (e.g., pistols, long guns). All firearm-related statutes should pertain to all types of firearms. Some statutes only pertain to the firearm used in the corresponding incident, but individuals should be ordered to surrender all firearms.



Legislators should revise statutes to include offenses that currently don’t require firearm surrender but would benefit from the option of firearm surrender orders (e.g., misdemeanor assaults, even if they don’t involve firearms; DANCOs or HCOs; violations of DANCOs or HROs), as defendants aiming to avoid surrender sometimes plead to offenses that do not prohibit possession. The legislature could also enact a statutory provision to allow the court to make findings regarding the relevant domestic relationship to trigger a surrender order. However, consider victims/survivors who wish to avoid firearm surrender orders (e.g., allowing prosecutor discretion to ask victims/survivors about their preferences).



Legislators should revise statutes such that people who become prohibited from firearm possession are also explicitly required to surrender their firearms.



Legislators should align penalties for violations across statutes, including strengthening the penalty for violating an ERPO from a misdemeanor to at least a gross misdemeanor.



The judicial branch, law enforcement, and legislators should create processes for determining whether proofs of transfer and affidavits were filed and implement penalties for failure to file.



Legislators and the future state board on firearm surrender should explore opportunities for collecting and analyzing data about risk of harm related to mental health and mental health holds more easily. Consider privacy laws and regulations.

Suggested recommendations from secondary sources



Legislators should consider using “catch all” language when drafting statutes to provide implicit authority to require firearm surrender if explicit language isn’t feasible. For example, allow courts to order “any other relief the court determines necessary to protect the petitioner and other household members,” which could include firearms-related provisions (Battered Women’s Justice Project, 2022; Battered Women’s Justice Project, 2024b; Mitchell, 2022).

Data collection and evaluation

Challenges

- There is a lack of data on implementation and outcomes of firearm surrender orders (e.g., the number of people who have been ordered to surrender firearms, the number of firearms surrendered, whether someone who was ordered to surrender their firearms used a firearm in a crime while the order was still active).
- There is a particular lack of data about firearm deaths in Indigenous communities, especially when there are multiple jurisdictions involved (e.g., both Tribal and non-Tribal law enforcement).
- Not all relevant data are publicly available (e.g., sealed affidavits).

There are legal prohibitions against collecting data about firearm ownership, such as:

- The 1966 Dickey Amendment: Prohibits using federal funding to advocate for gun control, effectively stifling firearm violence prevention research (Rostron, 2018).
- The Tiahrt Amendment: Prohibits the ATF from creating a firearm database that is searchable, prohibits the ATF from releasing data related to firearm traces except to law enforcement and national security agencies, and requires that the FBI destroy records related to approved NICS background checks within 24 hours (Dooley, 2017; Krouse, 2017).
- Federal law prohibits using NICS to create a database of firearms or firearm owners (18 U.S.C. § 926; 28 C.F.R. § 25.9).
- State statutes prohibit the Minnesota Department of Health from collecting data on individuals who legally possess firearms or whether individuals are legally allowed to carry a firearm, and they prohibit law enforcement agencies from tracking any data about permit-to-carry holders unnecessary to the permitting or renewal process (Minnesota Statutes § 144.05, 2022; Minnesota Statutes § 624.714).

Best practices



Law enforcement already catalogues some information regarding stored firearms, including the make, model, and serial number. These data systems should collect and store information about stored firearms that allow aggregation and queries and ensure they collect information regarding whether firearms are pistols or long guns to give a sense of the amount of storage room needed and the reason for storage (e.g., whether firearms were abandoned, seized in the commission of a crime, surrendered).

Supporting literature: Carey et al., 2024

Recommendations



The future state board on firearm surrender should assess the feasibility of creating a database regarding firearm surrender and prohibited possession and combining multiple data sources to expand analysis opportunities. This should include ways to standardize -going data collection and reporting processes across jurisdictions, and. Consider human subjects protections, firearms rights, and data privacy.

Supporting literature: Carey et al., 2024; Consortium for Risk-Based Firearm Policy, 2020; Everytown, 2024a; National Council of Juvenile and Family Court Judges, 2022a; Parsons et al., 2023

Track implementation indicators, including:

- Demographics of petitioners and subjects/defendants
- Petitioner categories (e.g., law enforcement, household member, family member, friend, coworker, social worker, attorney, medical professional)
- The relationship between the petition and subject/defendant
- The number of surrender orders and the number of people ordered to surrender firearms
- The number of surrendered firearms, including make, model, and serial numbers
- Whether proofs of transfer and affidavits are filed within the required amount of time
- Whether a search warrant was issued and whether it was served
- Whether firearms were surrendered or seized
- The party firearms were surrendered to (i.e., law enforcement, FFL, third party)
- Whether surrender order was served and date of service
- Whether subject/defendant was arrested, hospitalized, or referred to services
- The length of orders and prohibited possession periods and the lengths of time prosecutors initially ask for
- Whether surrender orders are temporary or permanent
- The jurisdictions petitions are filed and orders are granted in, to identify areas that could benefit from education and outreach
- Incidents and criminal proceedings that preceded the order
- Petition outcomes
- Whether a renewal or early termination was requested, whether they were granted, and who requested it

Track outcome indicators, including:

- Whether subjects of surrender orders and/or prohibited persons commit crimes using a firearm while the order is active and/or while the subject is prohibited from possession
- Whether petitions and orders are processed in a timely manner
- The experiences of petitioners and subjects/defendants to identify gaps and opportunities for improvement

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Task Force creation legislation

Sec. 18. TASK FORCE ON DOMESTIC VIOLENCE AND FIREARM SURRENDER.

Subdivision 1. Establishment.

The Task Force on Domestic Violence and Firearm Surrender is established to review existing laws that require the surrender of firearms by individuals subject to an order for protection, subject to an extreme risk protection order, or convicted of domestic assault, harassment, or stalking; identify best practices to ensure the surrender of firearms that prioritize the safety of peace officers, victims, and others; identify policies and procedures that reduce the danger to peace officers and other emergency responders called to an incident involving domestic violence; and make policy and funding recommendations to the legislature.

Subd. 2. Membership.

(a) The task force consists of the following members:

(1) the commissioner of public safety, or a designee;

(2) the director of the Missing and Murdered Indigenous Relatives Office, or a designee;

(3) the chief justice of the supreme court, or a designee;

(4) the state public defender, or a designee;

(5) a county attorney appointed by the Minnesota County Attorneys Association;

(6) an individual appointed by the Indian Affairs Council;

(7) a peace officer as defined in Minnesota Statutes, section 626.84, subdivision 1, paragraph (c), appointed by the Minnesota Chiefs of Police Association;

(8) a peace officer as defined in Minnesota Statutes, section 626.84, subdivision 1, paragraph (c), appointed by the Minnesota Sheriffs' Association;

(9) an individual appointed by Violence Free Minnesota;

(10) an individual appointed by Minnesota Coalition Against Sexual Assault; and

(11) an individual appointed by the Gun Violence Prevention Law Clinic at the University of Minnesota Law School.

(b) Appointments must be made no later than September 1, 2024.

(c) Members shall serve without compensation.

(d) Members of the task force serve at the pleasure of the appointing authority or until the task force expires. Vacancies shall be filled by the appointing authority consistent with the qualifications of the vacating member required by this subdivision.

Subd. 3. Officers; meetings.

(a) The commissioner of public safety shall convene the first meeting of the task force no later than September 15, 2024, and shall provide meeting space and administrative assistance for the task force to conduct its work.

(b) At its first meeting, the task force must elect a chair and vice-chair from among its members. The task force may elect other officers as necessary.

(c) The task force shall meet at least monthly or upon the call of the chair. The task force shall meet a sufficient amount of time to accomplish the tasks identified in this section. Meetings of the task force are subject to Minnesota Statutes, chapter 13D.

Subd. 4. Duties.

(a) The task force shall, at a minimum:

(1) examine existing laws requiring the surrender of firearms by individuals subject to orders for protection, convicted of domestic assault, and convicted of harassment or stalking;

(2) examine existing policies and procedures, if any, used in Minnesota to enforce orders requiring the surrender of firearms by individuals subject to an order for protection or convicted of domestic assault, harassment, or stalking;

(3) examine laws, policies, and procedures in other states related to enforcing orders requiring the surrender of firearms;

(4) identify barriers to enforcing orders in Minnesota that require the surrender of firearms by individuals subject to an order for protection or convicted of domestic assault, harassment, or stalking;

(5) identify best practices for enforcing orders requiring the surrender of firearms, prioritizing practices that protect the safety of peace officers, prosecutors, judges and court staff, victims, and others;

(6) identify policies and procedures that reduce the danger to peace officers and other emergency responders called to an incident involving domestic violence; and

(7) make policy and funding recommendations to the legislature.

(b) At its discretion, the task force may examine other issues consistent with this section.

Subd. 5. Recommendations; report.

The task force may issue recommendations and reports at any time during its existence. By February 1, 2025, the task force must submit a report to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over public safety finance and policy on the findings and recommendations of the task force.

Subd. 6. Expiration.

The task force expires the day after submitting its report under subdivision 5.