

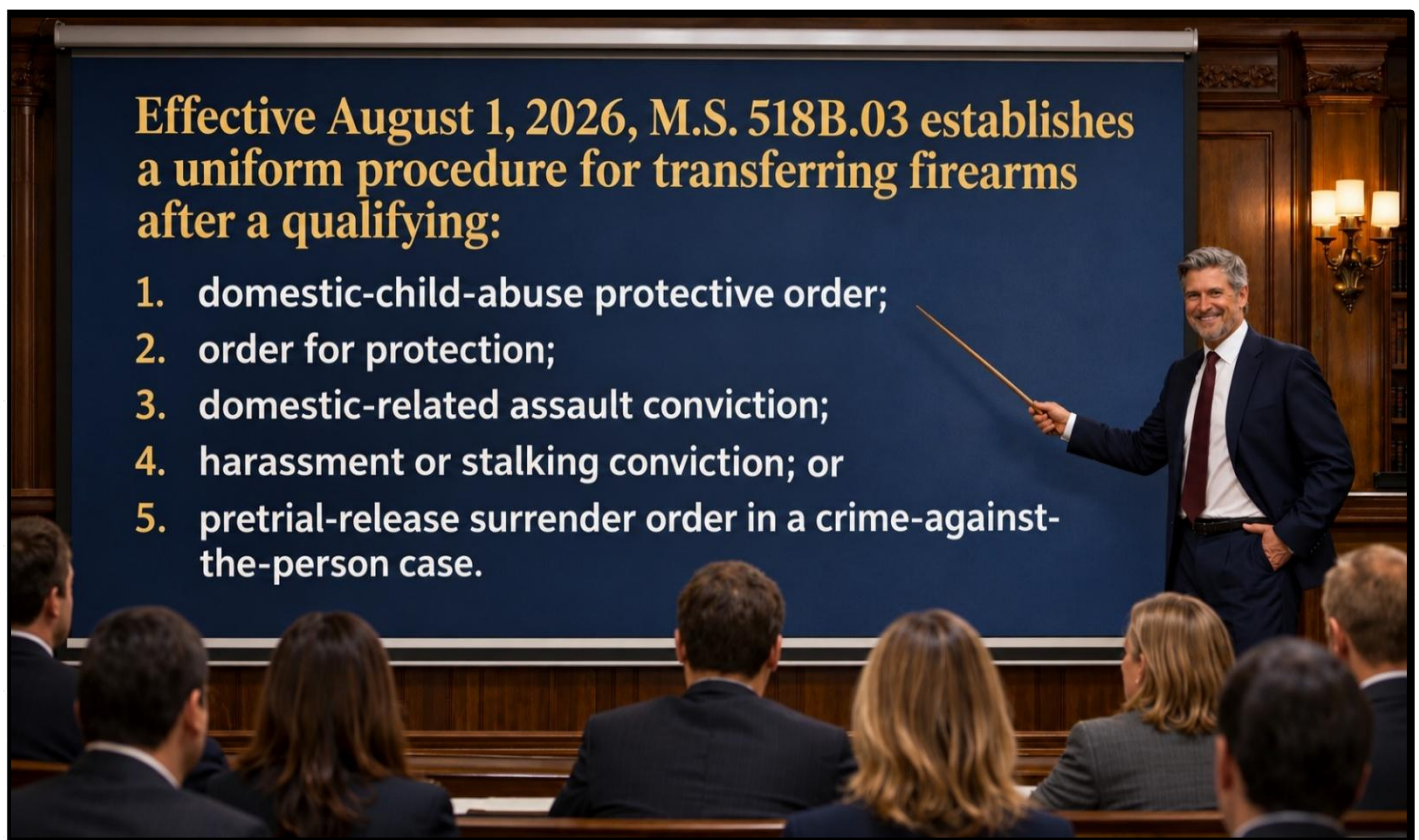


MINNESOTA JUDICIAL TRAINING UPDATE



MINNESOTA'S NEW UNIFORM FIREARM-SURRENDER LAW

Triggering Orders and Convictions, Transfer Procedures, Compliance Hearings, and Judicial Responsibilities



Statutory Purpose: [Chapter 75, H.F. 4075](#), is a significant 2026 overhaul intended to create a uniform statewide procedure for firearm surrender and compliance. Chapter 75 is long and complex consisting of 26 pages and more than 11,500 words. The law became effective August 1, 2026. The centerpiece is the new M.S. 518B.03, which governs firearm-transfer orders arising from five statutory categories.

THIS UPDATE WILL EXPLAIN THE NEW FIREARM-TRANSFER LAW IN TWO PARTS:

PART ONE identifies the five statutory categories listed in M.S. 518B.03 that require or authorize the court to issue a firearm-transfer order.

PART TWO explains how M.S. 518B.03 governs the transfer, documentation, compliance hearing, enforcement, storage, and return of firearms once a firearm-transfer order has been issued pursuant to one of the five statutory categories.

PART ONE

This section will explain the five statutory categories that activate the new uniform firearm transfer procedure. Only a firearm-transfer order issued under one of the five statutory categories specifically identified in M.S. 518B.03 activates the new procedure. The five categories are explained below.

- **Exception:** An ERPO (extreme risk protection order) uses the separate transfer procedures in M.S. 624.7175-.7176 and is NOT governed by M.S. 518B.03.

FIVE STATUTORY CATEGORIES THAT MAY TRIGGER THE FIREARM TRANSFER PROCESS

Important distinction: The underlying event does not, by itself, activate the procedures in M.S. 518B.03. Section 518B.03 applies when the court issues an order both prohibiting firearm possession and requiring the transfer of firearms.

Mandatory v. discretionary: For the first four categories, the court **must** impose the firearm disposition required by statute—ordinary transfer, immediate law-enforcement possession upon an imminent-risk finding, or forfeiture when firearm use triggers forfeiture. The fifth category, Pretrial firearm surrender under M.S. 629.715, remains discretionary.

1. Domestic-Child-Abuse Protective Order: M.S. 260C.201, subd. 3(d)–(e)

A transfer order is **mandatory** when the protective order:

- was issued after a hearing in Juvenile Court of which the abusing party had actual notice and an opportunity to participate;
- restrains conduct involving harassment, stalking, threats, or reasonable fear of bodily injury; and
- finds a credible threat to the child's physical safety or prohibits the use, attempted use, or threatened use of physical force.

When these requirements are met, the court **shall** prohibit firearm possession and order transfer under M.S. 518B.03. The court **must** also decide whether the person presents an imminent risk of substantial bodily harm. If so, law enforcement **must** take immediate possession of the firearms.

JUDICIAL TAKEAWAY: Make the required findings and restraints explicit in the order. A generic domestic-child-abuse disposition does not activate the firearm prohibition.

2. Order for Protection (OFP): M.S. 518B.01, subd. 6(g)–(h)

A transfer order is **mandatory** when, following notice and hearing, the OFP:

- restrains harassment, stalking, threats, or other conduct placing the petitioner in reasonable fear of bodily injury; and
- finds that the respondent presents a credible threat to the petitioner's physical safety or prohibits the use, attempted use, or threatened use of physical force.

A standard OFP does not automatically trigger firearm transfer. The order **must** contain the qualifying firearm prohibition and direct transfer under § 518B.03. An ex parte OFP does not satisfy the post-hearing provision. If imminent risk of substantial bodily harm is found, immediate law-enforcement possession is **mandatory**.

PRACTICE POINT—EX PARTE OFPs: An ex parte OFP under M.S. 518B.01, subd. 7, does not trigger the firearm-transfer procedure because it is issued without notice and a hearing. The qualifying firearm restrictions arise under subdivision 6, which governs relief entered after notice and a hearing. Federal firearm prohibitions must be considered separately.

3. Domestic-Related Assault Conviction: M.S. 609.2242, subd. 3

This provision covers convictions under:

- first-, second-, or third-degree assault—§§ 609.221, 609.222, and 609.223;
- fifth-degree assault—§ 609.224;
- domestic assault—§ 609.2242; and
- domestic assault by strangulation—§ 609.2247.

The court **must** make written findings on whether the assault was against a family or household member, whether the defendant owns or possesses a firearm, and whether a firearm was used.

If the victim was a family or household member, the court **must** order the required firearm disposition: transfer under M.S. 518B.03, immediate law-enforcement possession upon an imminent-risk finding, or—for a firearm used in the assault—summary forfeiture of that firearm and all other firearms possessed by the defendant.

PRACTICE POINT: The offense label does not control. A listed assault, including fifth-degree assault, triggers these requirements when the court finds the victim was a family or household member. Include that finding in the sentencing order and on the record.

4. Harassment or Stalking Conviction: M.S. 609.749, subd. 8

Every conviction under M.S. § 609.749 requires an imminent-risk determination and carries at least a three-year firearm prohibition; no family or household relationship is required. Unless forfeiture or immediate law-enforcement possession applies, the court **must** order transfer under M.S. § 518B.03. If imminent risk is found, law enforcement must take immediate possession of all firearms in the defendant's possession.

If the defendant owned or possessed a firearm and used it during the offense, the court **must** order summary forfeiture of that firearm and all other firearms possessed by the defendant. Firearm use also permits a longer or lifetime prohibition.

IMPORTANT DISTINCTION: An OFP/HRO-violation conviction will not independently trigger M.S. 518B.03. Either may, however, serve as a predicate act for a stalking conviction under § 609.749, which can trigger the firearm-transfer procedure.

5. Pretrial-Release Firearm-Surrender Order: M.S. 629.715, subd. 2

This is the only **discretionary** trigger. Following arrest for a “crime against the person” under M.S. 629.715, the judge may, as a condition of release, order surrender of all firearms, destructive devices, and dangerous weapons to local law enforcement. The person also may not live in a residence where others possess firearms. The person must also surrender permits to carry and purchase to the court, or—if the court does not take them immediately—to the issuing chief law-enforcement officer.

JUDICIAL TAKEAWAY: The arrest alone does not trigger firearm surrender. Firearms must be returned if charges are not filed, are dismissed, or result in acquittal. After conviction, return occurs by court order or upon discharge from probation and restoration of civil rights, unless forfeiture or another prohibition applies.

BEFORE PART TWO: IDENTIFY THE REQUIRED FIREARM DISPOSITION

Before applying the uniform firearm transfer procedure outlined in PART TWO below, the court must determine which firearm disposition the statute requires:

1. **Ordinary transfer:** Transfer firearms under M.S. 518B.03 by the court-set deadline.
2. **Immediate possession:** Upon a finding, by a preponderance of the evidence, that the person poses an imminent risk of substantial bodily harm, the court **must** order local law enforcement to take immediate possession of all firearms.
3. **Forfeiture:** If the defendant owned or possessed and used a firearm in the assault, harassment, or stalking offense, the court **must** order summary forfeiture of the firearm used and all other firearms possessed by the defendant. M.S. 609.2242, subd. 3(b); 609.749, subd. 8(d); 609.5316, subd. 3.

PART TWO: The Uniform Transfer Process—M.S. 518B.03

This section will explain how M.S. 518B.03 governs the transfer, documentation, compliance hearing, enforcement, storage, and return of firearms once a firearm-transfer order has been issued pursuant to one of the five statutory categories.

A. The Transfer Order: M.S. 518B.03, subds. 2–4

This section applies once the court issues a firearm-transfer order. The underlying statute determines whether a transfer order is mandatory or discretionary.

When a transfer order is issued, the court must:

- order the transfer of all firearms owned or possessed;
- set a compliance deadline based on the subject's custody status and the location of the firearms;
- schedule a compliance hearing within ten business days; and
- include the statutory use-immunity language.

The order should also identify the firearm prohibition and its duration, direct permit surrender as required by the triggering statute, and advise the subject of the obligation to file proof of transfer or a declaration of nonpossession.

B. Where Firearms May Be Transferred: M.S. 518B.03, subd. 2(b)

Firearms may be transferred temporarily or permanently to:

1. a federally licensed firearms dealer (FFL);
2. the subject's local law-enforcement agency; or
3. an eligible third party who does not live with the subject.

Local law enforcement **must** accept the firearms if selected. A lifetime prohibition requires permanent transfer. A temporary transfer changes possession, not ownership.

- **Pretrial-release exception:** Under M.S. 629.715, firearms must first be surrendered to the local law-enforcement agency. They cannot be surrendered directly to a third party or FFL, although the person may later direct law enforcement to transfer them to either recipient under M.S. 518B.03, subd. 3(e).

C. Third-Party Transfers: M.S. 518B.03, subds. 2(c), 3(c)

A third-party transfer **must** occur at the local law-enforcement agency, either under officer supervision or in a video-monitored zone. The subject **must** provide at least 24 hours' notice.

The third party **must** be legally eligible, live separately from the subject, and sign a notarized transfer affidavit. The third party may return a firearm only after the prohibiting period expires and the subject is legally eligible to possess firearms.

- The return must comply with M.S. 624.7134. Unless an exclusion applies, an unlicensed transfer of a pistol or semiautomatic military-style assault weapon must be completed through a dealer or supported by a valid transferee permit, current identification, and the required transfer record.

Practice point: A third party who allows a prohibited person to obtain possession of a transferred firearm may be guilty of a gross misdemeanor. Due care is an affirmative defense. M.S. 624.7144.

D. Proof of Compliance: M.S. 518B.03, subd. 2, 3

The subject **must** file:

- proof identifying the transferred firearms and whether the transfer is temporary or permanent;
- the third party's notarized affidavit, when applicable; or
- a declaration that the subject owned or possessed no firearms when the order issued and currently owns or possesses none.
- **FFL transfer:** Within two business days after service of the order, the subject must file the proof of transfer and attest that all firearms owned or possessed when the order issued were transferred and that the subject currently possesses none.

Every proof of transfer **must** identify the transfer date. For a third-party transfer, the subject must also record the transfer time; if an officer supervised the transfer, the officer must sign the proof as an attestation. The court must make these documents confidential. M.S. 518B.03, subd. 3(f).

E. Compliance Hearing and Enforcement: M.S. 518B.03, subd. 4

The court **must** hold a compliance hearing within ten business days after issuing the transfer order. The hearing may be **waived** if the court determines that the subject complied or submitted a credible declaration of nonpossession.

- The subject bears the burden of proving compliance. If probable cause exists to believe the subject has not complied—or the subject fails to appear—the court **must** take appropriate action, which may include an arrest warrant, notice to law enforcement, or remedial contempt proceedings.

F. Immediate Law-Enforcement Possession:

M.S. 260C.201, subd. 3(e); 518B.01, subd. 6(h); 609.2242, subd. 3(g); 609.749, subd. 8(f)

For domestic-child-abuse protective orders and OFPs, and following domestic-related assault or harassment or stalking convictions, the court **must** determine whether the subject poses an imminent risk of causing another person substantial bodily harm. If so, the court **must** order law enforcement to take immediate possession of all firearms instead of permitting transfer by the ordinary deadline.

G. Storage and Return: M.S. 518B.03, subd. 2(d)–(e)

An FFL or law-enforcement agency may charge reasonable storage fees. Nonpayment for 60 days after the firearm was transferred constitutes abandonment, subject to certified-mail notice before disposal. Temporarily transferred firearms may be returned only after the prohibition expires and the person is eligible under both state and federal law.

H. Use Immunity: M.S. 518B.03, subd. 4(c)–(f)

Firearm surrender, related testimony, and information derived from compliance may not be used against the subject in a criminal prosecution, except for perjury, false statements, or failure to comply. Every transfer order **must** contain this protection.

- If compliance presents a realistic risk of self-incrimination, the court may receive evidence ex parte or in camera. Only the prosecutor may grant additional immunity. If immunity is declined, the court must require surrender of all firearms and permits not presenting that risk. The possession prohibition remains in effect.

FINAL COURTROOM CHECK: Confirm the order identifies the trigger, makes the required findings, prohibits possession, directs firearm and permit surrender, sets a deadline, and includes the immunity language. Decide whether imminent risk requires immediate law-enforcement possession, and calendar the compliance hearing within **ten business days**.



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Special thanks to Debra J. Hilstrom, Attorney at Law, PLLC for generously contributing her insight and expertise to this update.

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