



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

*Item No.: 22-172*

For business meeting on December 2, 2022

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**Title**

Criminal Law: Definition of *Firearm*

**Agenda Item Type**

Action Required

**Rules, Forms, Standards, or Statutes Affected**

Revise forms CR-101, CR-102, and CR-210

**Effective Date**

March 1, 2023

**Recommended by**

Criminal Law Advisory Committee  
Hon. Brian M. Hoffstadt, Chair

**Date of Report**

November 1, 2022

**Contact**

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### Executive Summary

The Criminal Law Advisory Committee recommends revisions to two optional Judicial Council plea forms and an optional Judicial Council firearm relinquishment findings form to reflect statutory changes to the definition of *firearm* in Penal Code section 16520(b) and make minor, nonsubstantive technical changes. The committee also recommends additional revisions to one of the plea forms to reflect accurate mandatory minimum probation terms.

### Recommendation

The Criminal Law Advisory Committee recommends that the Judicial Council, effective March 1, 2023, revise:

1. *Plea Form, With Explanations and Waiver of Rights—Felony* (form CR-101) and *Prohibited Persons Relinquishment Form Findings* (form CR-210) to reflect statutory changes to the definition of firearm in Penal Code section 16520(b) and make nonsubstantive technical amendments; and

2. *Domestic Violence Plea Form with Waiver of Rights (Misdemeanor)* (form CR-102) to reflect statutory changes to the definition of firearm in Penal Code section 16520(b), revise language on mandatory probation terms, and make nonsubstantive technical amendments.

The proposed forms are attached at pages 6–16.

## **Relevant Previous Council Action**

The Judicial Council approved the optional *Plea Form, With Explanations and Waiver of Rights—Felony* (form CR-101), effective January 1, 2007, to promote increased uniformity in felony plea waiver forms used throughout the state. The form was most recently revised effective January 1, 2021, to conform to multiple statutory changes that added or changed sentencing requirements and advisements.

The council approved the optional *Domestic Violence Plea Form With Waiver of Rights (Misdemeanor)* (form CR-102), effective July 1, 2011, to promote standardized pleas in misdemeanor domestic violence cases. It was last revised, effective January 1, 2020, to accurately describe the role and responsibilities of interpreters.

The council approved the optional *Prohibited Persons Relinquishment Form Findings* (form CR-210), effective January 1, 2018, for courts to use to make appropriate findings concerning firearms relinquishment in criminal cases under Penal Code section 29810. This form has not been revised since that time.

## **Analysis/Rationale**

### **Firearms definition**

Effective June 30, 2022, Assembly Bill 1621 (Stats. 2022, ch. 76) expands the definition of a firearm as used in Penal Code sections 29800, 29805, 29810 to include completed frames, receivers, or “firearm precursor parts.” (Pen. Code, § 16520(b)(19).) The change is intended to include “ghost guns” (unserialized and untraceable firearms and firearm parts that can be bought online and assembled at home) in the list of items that restrained people cannot possess and must surrender. AB 1621 also amended the definition of firearm precursor parts to mean “any forging, casting, printing, extrusion, machined body or similar article that has reached a stage in manufacture where it may readily be completed, assembled or converted to be used as the frame or receiver of a functional firearm, or that is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once completed, assembled or converted.” (*Id.*, § 16531(a).) Before AB 1621, a firearm precursor part was defined as an unfinished frame or receiver.<sup>1</sup>

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<sup>1</sup> Former Penal Code section 16531(a): “As used in this part, ‘firearm precursor part’ means a component of a firearm that is necessary to build or assemble a firearm and is described in either of the following categories: (1) An unfinished receiver, including both a single part receiver and a multiple part receiver, such as a receiver in an AR-10- or AR-15-style firearm. An unfinished receiver includes a receiver tube, a molded or shaped polymer frame

AB 1621 superseded a prior bill (Assem. Bill 1057; Stats. 2021, ch. 682), which would have added firearm precursor parts to the definition of *firearm* under specified Family Code and Penal Code sections. To implement AB 1057 in civil domestic violence restraining orders and gun violence forms, the Family and Juvenile Law Advisory Committee and Civil and Small Claims Advisory Committee recommended referring to receivers, frames, and firearm precursor parts as “firearm parts” and further defining firearm parts to include any “receiver, frame, or unfinished receiver or frame, as defined under Penal Code section 16531.” The two committees believed the same changes to the forms needed to implement AB 1057 were appropriate to implement AB 1621, and the Judicial Council approved that language, effective January 1, 2023. In this proposal, the Criminal Law Advisory Committee initially recommended using the same terminology in the forms here, for consistency and comprehensibility.

In response to comments received, the committee has modified its original proposal and recommends referring to prohibited items on the three forms as firearms (guns), firearm parts, or ammunition, and stating that the prohibition includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame, with a reference to Penal Code section 16531. This language was developed in conjunction with other advisory committees making recommendations regarding similar language. The Civil and Small Claims Advisory Committee is recommending similar language for restraining and protective orders under that committee’s purview in a separate proposal to the council.

### **Mandatory probation terms**

Form CR-102 currently lists, as items 7c(8) and 7c(9), orders not to own, possess, purchase, or receive and to relinquish firearms as mandatory terms of domestic violence probation under Penal Code section 1203.097. However, these are not mandatory domestic violence probation terms under that statute. The provision in item 7f that the defendant may not be able to own, use, or possess firearms, firearm parts, or ammunition appears to be sufficient to address firearm-related prohibitions. Accordingly, the committee recommends removing items 7c(8) and 7c(9).

### **Policy implications**

The recommended revisions will provide defendants with accurate information about prohibited items.

### **Comments**

The committee received two comments agreeing with the proposal from the Superior Court of Orange County and the Superior Court of San Diego County. The San Diego court commented that it preferred a January 1, 2023, effective date, rather than March 1, 2023, because the new law is already operative. The committee discussed the comment but recommends a March 1, 2023 effective date in order to give other courts sufficient implementation time, based on the feedback of judicial administrators on the committee. The Bureau of Firearms (BOF), within the

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or receiver, a metallic casting, a metallic forging, and a receiver flat, such as a Kalashnikov-style weapons system, Kalashnikov-style receiver channel, or a Browning-style receiver side plate.

(2) An unfinished handgun frame.

Division of Law Enforcement in the California Department of Justice, agreed with the proposal if modified. As described below, the committee agreed with some, although not all, of the proposed modifications.

### ***Describing firearm precursor parts***

Rather than “firearm parts (any receiver, frame, or unfinished receiver or frame as defined in Penal Code section 16531),” BOF suggests using “receivers/frames, firearm precursor parts (as defined in Penal Code section 16531)” as an appropriate way to describe “firearm parts” on the forms. BOF is concerned about using “firearm parts” without the term “precursor” because “firearm parts” is not statutorily defined or used by the BOF or other law enforcement agencies. And although BOF acknowledges that “firearm precursor part” is a new term, it believes a plain-language description for the term would be “cumbersome.”

The committee recommends referring to prohibited items as any firearms (guns), firearm parts, or ammunition, and stating that the prohibition includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame, with a reference to Penal Code section 16531. Though “firearm parts” is not statutorily defined, the committee agreed that it was a helpful plain-language term for restrained persons to understand the prohibition against possessing frames, receivers, and firearm precursor parts, which are statutorily defined as “firearms” under Penal Code section 16520. “Any item that may be used as or easily turned into a receiver or frame” is the committee’s plain-language interpretation of the new definition of a firearm precursor part under AB 1621.

### ***Using “guns” on the forms***

Unlike the current civil restraining and protective orders, the current criminal protective orders, plea forms, and firearm relinquishment findings form do not currently use the word “guns” in parentheses after the term “firearms” to provide a plain-language explanation of firearms. Staff recommends adding “guns” to the criminal protective orders, plea forms, and firearm relinquishment findings form for consistency with the other forms prohibiting firearms. In its comment on related proposals, the BOF suggested that the word “gun” not be used on the forms because not all guns meet the statutory definition of firearms, such as blowguns, stun guns, and BB guns. The committee discussed the comment and recommends including the word “guns” as a plain-language synonym for “firearms.” The term “gun” appears to be more widely used and accessible to individuals with limited English proficiency. Moreover, the likelihood that an individual understands “guns” to include items that a restrained person is not prohibited from having seems low.

A chart with all comments received and the committee’s responses is attached at pages 17–22.

### **Alternatives considered**

The committee did not consider the alternative of taking no action, determining that it was important to revise the forms to implement legislative changes.

## **Fiscal and Operational Impacts**

Because the forms are optional, expected costs are limited to training, possible case management system updates, and the production of new forms. No other implementation requirements or operational impacts are expected.

## **Attachments and Links**

1. Forms CR-101, CR-102, and CR-210, at pages 6–16
2. Chart of comments, at pages 17–22

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	<b>FOR COURT USE ONLY</b>
<b>PEOPLE OF THE STATE OF CALIFORNIA</b> v. Defendant:	
<b>PLEA FORM, WITH EXPLANATIONS AND WAIVER OF RIGHTS—FELONY</b>	CASE NUMBER:

- INSTRUCTIONS:**
- (1) Fill out this form only if you want to plead guilty or no contest.
  - (2) Read this form carefully. For each item, if you understand and agree with what you read, put your initials in the box to the right of the item. For any item that does not apply to you or that you do not understand, leave the box blank.
  - (3) On page 6, sign and date the form under "DEFENDANT'S STATEMENT."
  - (4) Keep in mind that the court cannot give legal advice. If you have any questions about anything in this form, ask your attorney.

1. **CHARGES AND MAXIMUM TERM.** I want to plead guilty or no contest ("nolo contendere") to the charges and allegations listed below. I understand that the minimum and maximum penalties for the charges to which I am pleading guilty or no contest are listed below.

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COUNT	CHARGES (SECTION & DESCRIPTION)	YEARS / MONTHS		PRIOR CONVICTIONS, ENHANCEMENTS & SPECIAL ALLEGATIONS (SECTION & DESCRIPTION)	YEARS / MONTHS		TOTAL MAXIMUM TIME
		MINIMUM	MAXIMUM		MINIMUM	MAXIMUM	
<b>AGGREGATE MAXIMUM TIME OF IMPRISONMENT</b>							

2. **PLEA AGREEMENT.** I understand that I must tell the court on this form about any promises anyone has made to me about the sentence I will receive or the sentence recommendations that will be made to the court. My attorney, the court, or the prosecutor has explained to me that if I plead guilty or no contest to the charges and admit the allegations listed above, the court will sentence me as follows:

a. Check one: ☐ **State Prison** (or the Division of Juvenile Justice) ☐ **County Jail** for

INITIALS

(1)  years and  months or

(2)  not less than years and months and/or not more than years and months.

(3)  Other (specify):

b. **Probation** for years under conditions to be set by the court, including

days in the **county jail** or

up to days in the **county jail**.

I understand that a violation of any of the conditions of probation, including failure to complete a drug education or treatment program, if ordered by the court, may cause the court to send me to **county jail or state prison** for up to the "**Aggregate Maximum Time of Imprisonment**" specified in item 1, which may include a period of mandatory supervision under Penal Code section 1170(h)(5)(B) if the court sends me to county jail.

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2. c. **Split Sentence (1170(h)(5)(B)):**        years and        days in the county jail and        years and        days on mandatory supervision under conditions set by the court. I understand that if I violate any of the terms or conditions of mandatory supervision, I may be remanded into custody for the entire unserved portion of the sentence.

d. **Open Plea**

- (1) ☐ I understand the maximum and minimum sentences for the charges and allegations stated on page 1. No one has made any other promises to me about what sentence the court may order.
- (2) ☐ I understand that I am not eligible for probation.
- (3) ☐ I understand that I will not be granted probation unless the court finds at the time of sentencing that this is an unusual case where the interests of justice would be best served by granting probation.

e. **Restitution, Statutory Fees, and Assessments**

I understand that the court will order me to pay the following amounts (if an amount is not yet known, "TBD" for "to be determined" is entered next to the \$); I must prepare financial disclosure statements to assist the court in determining my ability to pay; and refusal or failure to prepare the required financial disclosure statements may be used against me at sentencing:

- (1) ☐ \$        **to the Victim Restitution Fund**
- (2) ☐ \$        **restitution to actual victims**
- (3) ☐ \$        **restitution to the State of California, Victims of Crime Fund**
- (4) ☐ \$        **court operations assessment**
- (5) ☐ \$        **court facilities assessment**
- (6) ☐ \$        **base fine plus any applicable penalties, assessments, and surcharges**
- (7) ☐ \$        **other (specify):**
- (8) ☐ \$        **other (specify):**
- (9) ☐ An (additional) amount to be determined by the court at sentencing or such other hearing as the court may set.

f. **Fines for Revocation of Parole, Postrelease Community Supervision, Mandatory Supervision, or Probation**

I understand that if I am sentenced to **state prison**, the court **will** impose a parole revocation fine or a postrelease community supervision revocation fine, which will be collected only if my parole or postrelease community supervision is later revoked. I also understand that if I am granted probation or mandatory supervision, the court **will** impose a probation revocation fine or mandatory supervision revocation fine, which will be collected only if my probation or mandatory supervision is later revoked.

g. **Dismissal of Other Counts**

I understand that as part of the plea agreement bargain, the following counts will be dismissed after sentencing:

I understand and agree that the sentencing judge may consider facts underlying dismissed counts to determine restitution and to sentence me on the counts to which I am entering a plea.

h. **Other Terms (specify):**

3. **CONSEQUENCES OF MY PLEA**

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a. **No Contest ("Nolo Contendere") Plea**

I understand that a no contest plea is the same as pleading guilty and that if I plead no contest, I will be convicted and my no contest plea could be used against me in a civil case.

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**3. b. Parole and Postrelease Community Supervision**I understand that if I am sentenced to **state prison**

- (1) I will be placed on parole or postrelease community supervision for up to \_\_\_\_\_ years after my release.
- (2) **if** I abscond or the court tolls my supervision, the total time of parole or postrelease community supervision can be extended.
- (3) **if** I violate any of the terms or conditions of my parole, I can be sentenced to county jail for up to 180 days for each violation, or returned to state prison for up to one year, up to a maximum of \_\_\_\_\_ years. If I violate any of the terms or conditions of postrelease community supervision, I can be sentenced to county jail for up to 180 days for each violation, for up to a maximum of 3 years.

**c. Effect of Conviction on Other Cases**

I understand that a conviction in this case may constitute a violation of any other current grant of parole, mandatory supervision, postrelease community supervision, or probation in any other case and that I may receive additional punishment as a result of that violation.

**d. Registration**

I understand that I will be required to register with the local police agency or sheriff's department in the city or county in which I reside as

- (1) ☐ an arson offender                      (3) ☐ a sex offender (**this registration is a lifelong requirement**)
- (2) ☐ a gang member                      (4) ☐ **Other** (specify):

and that if I fail to register or to keep my registration current for any reason, new felony criminal charges may be filed against me.

**e. Prints and DNA Samples**

I understand that I must provide biological samples and prints for identification purposes—including buccal (mouth) swab samples, right thumb prints, palm prints of each hand, and blood specimens or other biological samples required by law—and that failure to do so constitutes a new criminal offense.

**f. Serious or Violent Felony**

- (1) ☐ I understand that by pleading guilty or no contest to a serious or violent felony ("strike"), the penalty for any future felony conviction will be increased as a result of my conviction in this case, depending on the number of strikes I have, up to a mandatory prison sentence of double the term otherwise provided or a term of at least 25 years to life.
- (2) ☐ I understand that if I am convicted of a violent felony, jail or prison conduct/work-time credit I may accrue will not exceed 15 **percent**.
- (3) ☐ I understand that if I am admitting a prior strike conviction, prison work-time credit that I may accrue will not exceed 20 **percent** of the total term of imprisonment.
- (4) ☐ I understand that if I am convicted of murder or a third felony conviction of certain offenses, I am ineligible to receive work-time credits. Count \_\_\_\_\_ is such an offense.

**g. Prior Prison Term for Sexually Violent Offense**

I understand that if I am sentenced to serve a state prison term for this sexually violent offense, as defined in Welfare and Institutions Code section 6600(b), the penalty for any future felony conviction may be increased as a result of my incarceration in this case.

**h. Driver's License and Vehicle Forfeiture**

I understand that my privilege to drive a motor vehicle may be revoked or suspended by the court or the California Department of Motor Vehicles, and my vehicle may be ordered forfeited if it was involved in the offense.



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3. i. **Immigration Consequences**

I understand that if I am not a citizen of the United States, my plea of guilty or no contest may result in my deportation, exclusion from admission to the United States, or denial of naturalization under the laws of the United States.

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j. **Firearms (Guns), Firearm Parts, and Ammunition Prohibition**

I understand that federal and state laws prohibit a convicted felon from possessing firearms (guns), firearm parts, or ammunition for life. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).

k. **Other Consequences (specify):**4. **RIGHT TO AN ATTORNEY**

I understand that I have the right to an attorney of my choice to represent me throughout the proceedings. If I cannot afford to hire an attorney, the court will appoint one to represent me.

**I hereby give up my right to be represented by an attorney.**

5. **OTHER CONSTITUTIONAL RIGHTS**

I understand that I am entitled to each of the following rights as to the charges listed in item 1 (on page 1):

a. **Right to a Jury Trial**

I understand that I have a right to a speedy and public jury trial. At the trial, I would be presumed to be innocent, and I could not be convicted unless, after hearing all of the evidence, 12 impartial jurors chosen from the community were unanimously convinced beyond a reasonable doubt that I am guilty. I have a right, through my counsel, to participate in jury selection.

b. **Right to a Court Trial**

I understand that, as an alternative to a jury trial, if the prosecutor agrees, I may give up a jury trial and have a court trial in which the judge alone, without a jury, hears the evidence. I still could not be convicted unless, after hearing all of the evidence, the judge was convinced beyond a reasonable doubt that I am guilty.

c. **Right to Confront and Cross-Examine Witnesses**

I understand that I have the right to confront and cross-examine all witnesses testifying against me. This means that the prosecution must produce the witnesses in court, they must testify under oath in my presence, and my attorney may question them.

d. **Right to Remain Silent and Not to Incriminate Myself**

I understand that I have the right to remain silent, and my silence cannot be considered as evidence against me. I understand that I also have the right not to incriminate myself, and I cannot be forced to testify.

e. **Right to Produce Evidence and to Present a Defense**

I understand that I have a right to present evidence and to have the court issue subpoenas to bring to court all witnesses and evidence favorable to me, at no cost to me. I also have the right to testify on my own behalf.

6. **BEFORE THE PLEA**a. **Discussion With My Attorney**

**Before entering this plea, I have had a full opportunity to discuss the following with my attorney:**

- (1) The facts of my case;
- (2) The elements of the charged offenses, prior convictions, enhancements, and special allegations;
- (3) Any defenses that I may have;
- (4) My constitutional and statutory rights and waiver of those rights;
- (5) The consequences of this plea, including the immigration consequences; and
- (6) Anything else I think is important to my case.

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6. b. **Questions**

I have no further questions of the court or of my attorney with regard to my plea and admissions in this case, any of the rights, or anything else on this form.

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c. **Stipulation to Commissioner**

I understand that I have the right to have a judge take my plea and sentence me. I give up this right and agree to have a commissioner, sitting as a temporary judge, take my plea and sentence me.

d. **Medications or Controlled Substances**

I am not taking any medication that affects my ability to understand this form and the consequences of my plea, have not recently consumed any alcohol or drugs, and am not suffering from any medical condition, except for the following:

e. **Court Approval of Plea Agreement**

I understand that the plea agreement in item 2 (on pages 1 and 2) is based on the facts before the court. I understand that if the court approves this plea agreement the approval of the court is not binding, and that the court may withdraw its approval of the plea agreement upon further consideration of the matter. I understand that if the court withdraws its approval of this plea agreement I will be allowed to withdraw my plea. (Pen. Code, § 1192.5.)

7. **STATUTORY RIGHT TO A PRELIMINARY HEARING**

I understand that before I have a trial, the law gives me the right to a speedy preliminary hearing at which the prosecution would produce evidence and the court must find reasonable cause to believe I committed the crimes with which I have been charged. I understand that I have all of the above constitutional rights at the preliminary hearing, except for the right to a jury trial.

I give up my right to a preliminary hearing and the constitutional rights listed in item 5 (on page 4).

8. **WAIVER OF CONSTITUTIONAL RIGHTS**

I give up, for each of the charges and allegations listed in item 1 (on page 1), my right to a jury trial, my right to a court trial, my right to confront and cross-examine witnesses, my right to remain silent and not to incriminate myself, and my right to produce evidence and to present a defense, including my right to testify on my own behalf. I understand that I am, in fact, incriminating myself with my plea.

9. **THE PLEA**

I freely and voluntarily plead ☐ GUILTY ☐ NO CONTEST to the charges listed in item 1 (on page 1) and admit the allegations listed in item 1 (on page 1), understanding that this plea and admission will lead to the penalties listed in item 2 (on pages 1 and 2).

a. I offer my plea of guilty or no contest freely and voluntarily and with full understanding of everything in this form. No one has made any threats; used any force against me, my family, or my loved ones; or made any promises to me, except as listed in this form, in order to convince me to plead guilty or no contest.

b. I understand that the court is required to find a factual basis for my plea to make sure that I am entering a plea to the proper offenses under the facts of the case.

I offer to the court the following as the basis for my plea of guilty or no contest and any admissions:

(1) I understand that the court may consider the following as proof of the factual basis for my plea:

- (a) ☐ Preliminary hearing transcript
- (b) ☐ Police report
- (c) ☐ Probation report
- (d) ☐ Welfare investigator's declaration
- (e) ☐ Court documents regarding any alleged prior offenses
- (f) ☐ Other(*specify*):
- (g) ☐ (Specify facts):

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9. b. (2) **I am pleading guilty or no contest to take advantage of a plea agreement (my attorney will stipulate to a factual basis for the plea).** (*People v. West* (1970) 3 Cal.3d 595.)

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**10. AFTER THE PLEA****a. Surrender**

I understand that the court is allowing me to surrender at a later date to begin serving time in custody.

I agree that if I fail to appear on the date set for surrender or sentencing without a legal excuse, my plea will become an "open plea" to the court, I will not be allowed to withdraw my plea, and I may be sentenced up to the maximum allowed by law.

**b. Sentencing Court**

I understand that I have the right to be sentenced by the same judge or commissioner who takes my plea.

I give up that right and agree that any judge or commissioner may sentence me.

**c. Sentencing Date**

I understand that I have the right to be sentenced within 20 court days. I give up that right and agree to be sentenced at a later date.

**11. MANDATORY WARNING**

I understand that if I am charged with violating Vehicle Code section 23103, as specified in Vehicle Code section 23103.5, or Vehicle Code sections 23152 or 23153, the following warning applies:

**You are hereby advised that being under the influence of alcohol or drugs, or both, impairs your ability to safely operate a motor vehicle. Therefore, it is extremely dangerous to human life to drive while under the influence of alcohol or drugs, or both. If you continue to drive while under the influence of alcohol or drugs, or both, and as a result of that driving someone is killed, you can be charged with murder.**

**DEFENDANT'S STATEMENT**

I have read or have had read to me this form and have initialed each of the items that applies to my case. If I have an attorney, I have discussed each item with my attorney. By putting my initials next to the items in this form, I am indicating that I understand and agree with what is stated in each item that I have initialed. The nature of the charges, possible defenses, and effects of any prior convictions, enhancements, and special allegations have been explained to me. I understand each of the rights outlined above, and I give up each of them to enter my plea.

Date: \_\_\_\_\_

(TYPE OR PRINT NAME)

(SIGNATURE OF DEFENDANT)

**ATTORNEY'S STATEMENT**

I am the attorney of record for the defendant. I have reviewed this form with my client. I have explained each of the items in the form, including the defendant's constitutional and statutory rights, to the defendant and have answered all of his or her questions with regard to those rights, the other items in this form, and the plea agreement. I have also discussed the facts of the case with the defendant and have explained the nature and elements of each charge; any possible defenses to the charges; the effect of any prior convictions, enhancements, and special allegations; and the consequences of the plea.

I concur in the plea and admissions and join in the waiver of the defendant's constitutional and statutory rights, and I hereby stipulate that there is a factual basis for the plea and refer the court to the ☐ police report ☐ preliminary hearing transcript ☐ probation report ☐ other (*specify*): \_\_\_\_\_ (*People v. West* (1970) 3 Cal.3d 595.)

Date: \_\_\_\_\_

(TYPE OR PRINT NAME)

(SIGNATURE OF ATTORNEY)

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**INTERPRETER'S STATEMENT**

I, having been duly sworn or having a written oath on file, certify that I truly translated this form to the defendant in the language noted below.

Language: ☐ Spanish ☐ Other (*specify*):

Date: \_\_\_\_\_

(CERTIFICATION NUMBER)

(TYPE OR PRINT NAME)

(SIGNATURE OF INTERPRETER)

**DISTRICT ATTORNEY'S STATEMENT**

I have read this form and understand the terms of the plea agreement.

I ☐ agree ☐ do not agree with the terms of the plea agreement and the indicated sentence.

Date: \_\_\_\_\_

(TYPE OR PRINT NAME)

(SIGNATURE OF DISTRICT ATTORNEY)

**COURT'S FINDINGS AND ORDER**

The court, having reviewed this form (and any addenda), and having orally examined the defendant, finds as follows:

1. The initialed items in this form have been read by or read to the defendant, and the defendant understands each of them.
2. The defendant understands the nature of the crimes and allegations listed in item 1 (on page 1) and the consequences of the plea and any admissions.
3. The defendant expressly, knowingly, understandingly, and intelligently waives the constitutional and statutory rights associated with this plea.
4. The defendant's plea, admissions, and waiver of rights are made freely and voluntarily.
5. A factual basis exists for the plea and admissions, or the defendant is pleading under a plea bargain under *People v. West*.

The court accepts the defendant's plea, admissions, and waiver of rights, and the defendant is hereby convicted based thereon.

It is ordered that this document be filed with the court's records of this case and that the defendant's plea, admissions, and waiver of rights be accepted and entered in the minutes of this court.

Date: \_\_\_\_\_

(SIGNATURE OF JUDICIAL OFFICER)

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	<b>FOR COURT USE ONLY</b>
PEOPLE OF THE STATE OF CALIFORNIA v. Defendant(s):	
<b>DOMESTIC VIOLENCE PLEA FORM WITH WAIVER OF RIGHTS—MISDEMEANOR</b>	CASE NUMBER:

**Instructions:**

- Fill out this form only if you want to plead guilty or no contest.
- Read this form carefully. For each item, if you understand and agree with what you read, put your initials in the box to the right of the item. For any item that does not apply to you or that you do not understand, leave the box blank.
- Sign and date the form under "DEFENDANT'S STATEMENT" on page 3.
- Keep in mind that the court cannot give legal advice. If you have an attorney and have questions about anything in this form, ask your attorney.

INITIALS

1. **Charges and Maximum Penalties.** I want to plead guilty or no contest to the charges listed below. I understand that the maximum penalties for the charges to which I am pleading guilty or no contest are listed below.

COUNT	CHARGES (SECTION & DESCRIPTION)	MAXIMUM PENALTY (FINE & JAIL)

2. **Prior Convictions.** I understand that I am also charged with a prior conviction in case number(s):
3. **Probation Violations.** I understand that I am also charged with a violation of probation in case number(s):
4. **Right to an Attorney** (*Leave this box blank if you have an attorney*). I understand that I have the right to an attorney of my choice to represent me throughout the proceedings. If I cannot afford to hire an attorney, the court will appoint one to represent me. **I hereby give up my right to be represented by an attorney.**
5. **Other Constitutional Rights.** I understand that I am entitled to each of the following rights concerning the charges and prior convictions (if any) listed in items 1 and 2 (above):
- a. **Right to a jury trial.** I understand that I have a right to a speedy and public jury trial. At the trial, I would be presumed to be innocent and I could not be convicted unless, after hearing all of the evidence, 12 impartial jurors chosen from the community were convinced beyond a reasonable doubt that I am guilty.
- b. **Right to confront and cross-examine witnesses.** I understand that I have the right to confront and cross-examine all witnesses testifying against me. This means that the prosecution must produce the witnesses in court to testify under oath in my presence and I or my attorney may question them.
- c. **Right to remain silent and not incriminate myself.** I understand that I have the right to remain silent and my silence cannot be considered as evidence against me. I understand that I also have the right not to incriminate myself and I cannot be forced to testify.

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Defendant(s):

CASE NUMBER:

INITIALS

6. **Rights for Probation Violations** (Leave this box blank if you are not charged with a probation violation). I understand that I have all the constitutional rights listed above for all probation violations charged against me, except that I do not have a right to a jury trial, only a court hearing before a judge.

7. **Consequences of My Plea**

- a. **No contest plea.** I understand that a no contest plea has the same effect as a guilty plea except that it cannot be used against me in a civil case that derives from an act on which this prosecution is based unless the offense is punishable as a felony.
- b. **Effect of conviction on other cases.** I understand that a conviction in this case may be used to increase my punishment for future domestic violence convictions and may constitute a violation of any other current grant of parole or probation, which may result in additional punishment.
- c. **Mandatory minimum conditions of probation.** I understand that if I am granted probation, the terms and conditions will include *at least* all of the following (see Pen. Code, § 1203.097):
- (1) A minimum of either 36 months (three years) or 48 months (four years) of probation;
  - (2) A criminal court protective order that may include residence exclusion or stay-away conditions;
  - (3) Booking within one week of sentencing if I have not already been booked;
  - (4) Several statutory fines, fees, and assessments, including a domestic violence fee, restitution fine, probation revocation fine (stayed), criminal conviction assessment, and court security fee;
  - (5) Successful completion of an appropriate batterer's treatment program lasting at least 52 weeks;
  - (6) Community service;
  - (7) Restitution to the victim (if applicable); and
  - (8) Other:




- d. **Effect of future probation violation.** I understand that if I violate any of the terms or conditions of probation, I may be returned to court and sentenced up to the maximum punishment on each charge as indicated in item 1.
- e. **Immigration consequences.** I understand that if I am not a citizen of the United States, my plea of guilty or no contest may result in my deportation, exclusion from admission to the United States, or denial of naturalization under the laws of the United States.
- f. **Firearms (guns), firearm parts, ammunition prohibition.** I understand that a conviction in this case may prohibit me from owning, using, or possessing firearms (guns), firearm parts, and ammunition within 10 years under Penal Code sections 29805 and 30305. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).
- g. **Child custody consequences.** I understand that a conviction in this case may result in a rebuttable presumption that an award of sole or joint physical or legal custody of a child is detrimental to the best interest of the child under Family Code section 3044.
- h. **Other consequences (specify):**







8. **Before the Plea**

- a. **Discussion with my attorney** (leave this box blank if you are not represented by an attorney). Before entering this plea, I have had a full opportunity to discuss with my attorney the facts of the case, the elements of the charged offenses and prior convictions (if any), any defenses that I may have, my constitutional and statutory rights and waiver of those rights, the consequences of this plea, and anything else I think is important to my case.
- b. **Questions.** I have no further questions for the court or for my attorney with regard to my plea and admissions in this case or any of my rights or anything else on this form.



9. **Waiver of Constitutional Rights.** For each of the charges, prior convictions (if any), and probation violations (if any) listed in items 1, 2, and 3, I give up my right to a jury trial, my right to a court hearing, my right to confront and cross-examine witnesses, and my right to remain silent and not to incriminate myself. I understand that I am, in fact, incriminating myself with my plea.



10. **The Plea (check one).** I freely and voluntarily plead ☐ GUILTY ☐ NO CONTEST to the charges listed in item 1. I offer my plea with full understanding of everything in this form. No one has made any threats; used any force against me, my family, or loved ones; or made any promises to me, except as listed in this form, in order to convince me to plead guilty or no contest.

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Defendant(s):

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INITIALS

11. **Prior Convictions.** I freely and voluntarily admit the prior convictions (if any) listed in item 2, and I understand that this admission may increase the penalties that are imposed on me.

12. **Probation Violations.** I freely and voluntarily admit the probation violations (if any) listed in item 3.

13. **Sentencing.** I understand that I have a right to delay my sentencing at least 6 hours and as long as 5 days after my plea. I give up this right and agree to be sentenced at this time.

### DEFENDANT'S STATEMENT

I have read or have had read to me this form and have initialed each of the items that applies to my case. If I have an attorney, I have discussed each item with my attorney. By putting my initials next to the items in this form, I am indicating that I understand and agree with what is stated in each item that I have initialed. The nature of the charges, possible defenses, and the effects of any prior convictions and probation violations have been explained to me. I understand each of the rights outlined above and I give up each of them to enter my plea.

Date: \_\_\_\_\_

(TYPE OR PRINT NAME)

SIGNATURE OF DEFENDANT

### ATTORNEY'S STATEMENT

I am the attorney of record for the defendant. I have reviewed this form with my client. I have explained each of the items in the form, including the defendant's constitutional and statutory rights, to the defendant and have answered all of his or her questions with regard to those rights, the other items in this form, and the plea agreement. I have also discussed the facts of the case with the defendant and have explained the nature and elements of each charge, any possible defenses to the charges, the effect of any prior convictions and probation violations, and the consequences of the plea.

Date: \_\_\_\_\_

(TYPE OR PRINT NAME)

SIGNATURE OF ATTORNEY

### INTERPRETER'S STATEMENT

I, having been duly sworn or having a written oath on file, certify that I truly translated this form to the defendant in the language noted below.

Language: ☐ Spanish ☐ Other (specify): \_\_\_\_\_

Date: \_\_\_\_\_

(CERTIFICATION NUMBER)

(TYPE OR PRINT NAME)

SIGNATURE OF INTERPRETER

### COURT'S FINDINGS AND ORDER

The court, having reviewed this form and having orally examined the defendant, finds that (a) the defendant has read or been read and understands each of the initialed items on this form; (b) the defendant understands the nature of the crimes and allegations listed in items 1, 2, and 3 and the consequences of the plea and any admissions; (c) the defendant expressly, knowingly, understandingly, and intelligently waives his or her constitutional and statutory rights; and (d) the defendant's plea, admissions, and waiver of rights are made freely and voluntarily.

The court accepts the defendant's plea, admissions, and waiver of rights, and the defendant is hereby convicted based thereon.

It is ordered that this document be filed with the court's records of this case and that the defendant's plea, admissions, and waiver of rights be accepted and entered in the minutes of this court.

Date: \_\_\_\_\_

SIGNATURE OF JUDICIAL OFFICER

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	FOR COURT USE ONLY  <b>DRAFT</b> <b>Not approved by</b> <b>the Judicial Council</b>
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	
<b>PROHIBITED PERSONS RELINQUISHMENT FORM FINDINGS</b> <b>(Pen. Code, § 29810(c))</b>	CASE NUMBER:
	FOR COURT USE ONLY  Date: Time: Department:

Any reference to "firearm" throughout this form includes any firearms (guns), receivers, frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16351). The defendant is prohibited from owning, purchasing, receiving, possessing, or having under his or her custody any firearms, ammunition, and ammunition feeding devices, including but not limited to magazines, and shall relinquish all firearms under Penal Code section 29810.

### THE COURT FINDS

#### Compliance

1. ☐ Defendant has completed a *Prohibited Persons Relinquishment Form*; and
  - a. ☐ defendant relinquished all firearms per the probation officer's report and provided relinquishment receipts; or
  - b. ☐ defendant was allowed an alternative method of relinquishment under Penal Code section 29810(f) and relinquished all firearms under an alternative method.
4. ☐ Defendant has no reportable firearms per the probation officer's report.

#### Noncompliance

5. ☐ Defendant has not completed a *Prohibited Persons Relinquishment Form*.
6. ☐ Defendant has not complied with the relinquishment requirements of Penal Code section 29810.
7. ☐ Search warrant required; matter referred to the prosecuting agency of the county for appropriate action.

 \_\_\_\_\_  
 (DATE)

 \_\_\_\_\_  
 (SIGNATURE OF JUDICIAL OFFICER)



## SP22-12

### Definition of *Firearm* (Forms CR-101, CR-102, and CR-210)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
1.	California Department of Justice Division of Law Enforcement, Bureau of Firearms by Charlie Sarosy, Deputy Attorney General	AM	<p>The Bureau of Firearms (BOF), within the Division of Law Enforcement in the California Department of Justice, respectfully submits this public comment regarding the revisions made to two Judicial Council plea forms and one firearms relinquishment form pursuant to Assembly Bill 1621 (Stats. 2022, ch. 76) (AB 1621).</p> <p>This comment will first address the revisions made to the CR-101 and CR-102 forms. For the reasons described below, the following revision is recommended for both forms: that the phrase “firearms, firearm parts (any receiver, frame, or unfinished receiver or frame as defined in Penal Code section 16531), or ammunition” be revised to “firearms, receivers/frames, firearm precursor parts (as defined in Penal Code section 16531), or ammunition.”</p> <p>The term “firearm parts” is not a term used by the BOF, or other law enforcement agencies, to collectively refer to receivers, frames, and unfinished receivers or frames. In addition to being an unfamiliar term, “firearm parts” also lacks any statutory definition.</p> <p>Further, connecting “unfinished receiver or frame” with Penal Code section 16531 is inaccurate because AB 1621 eliminated these terms from section 16531. Before AB 1621, section 16531 defined a “firearm precursor part” as “a component of a firearm that is necessary to</p>	<p>The committee recommends the use of “firearm parts” as a plain language term to refer to frames, receivers, and firearm precursor parts. The committee believes that a significant portion of court users would better understand what items are prohibited through referring to them as “firearm parts.”</p> <p>The committee agrees, in part, and will replace “unfinished receiver or frame” with “any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).”</p>

## SP22-12

### Definition of *Firearm* (Forms CR-101, CR-102, and CR-210)

All comments are verbatim unless indicated by an asterisk (\*).

		<p>build or assemble a firearm and is described in either of the following categories: (1) An unfinished receiver . . . . (2) An unfinished handgun frame.” (Former Pen. Code, § 16531, subd. (a).) But AB 1621 amended section 16531 and replaced the previously-described definition of a firearm precursor part with the following: “any forging, casting, printing, extrusion, machined body or similar article [1] that has reached a stage in manufacture where it may readily be completed, assembled or converted to be used as the frame or receiver of a functional firearm, or [2] that is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once completed, assembled or converted.” (Pen. Code, § 16531, subd. (a).) The terms “unfinished receiver” and “unfinished frame” no longer appear in Penal Code section 16531 because of AB 1621. Indeed, this fact is acknowledged at page 2, footnote 2 in Item SP22-12’s Invitation to Comment. Thus, continuing to use those terms and tying them to section 16531 contradicts the current wording of the statute. Moreover, the BOF does not use “unfinished receiver or frame” in its Firearm Precursor Part Identification Guidebook, available here, <a href="https://oag.ca.gov/system/files/media/bof-reg-rev-fpp-id-guidebook.pdf">https://oag.ca.gov/system/files/media/bof-reg-rev-fpp-id-guidebook.pdf</a>, or in the related regulations. (See also Cal. Code Regs., tit. 11, § 4303.)</p> <p>Accordingly, it is recommended that “firearm parts (any receiver, frame, or unfinished receiver or frame as defined in Penal Code</p>	
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## SP22-12

### Definition of *Firearm* (Forms CR-101, CR-102, and CR-210)

All comments are verbatim unless indicated by an asterisk (\*).

		<p>section 16531)” be replaced with: “receivers/frames, firearm precursor parts (as defined in Penal Code section 16531).”</p> <p>This recommended iteration is clearer because the terms “receiver” and “frame” are defined under California regulations (Cal. Code Regs., tit. 11, § 4303(a)(3), (6)), and federal regulations (Definition of “Frame or Receiver” and Identification of Firearms, 87 Fed. Reg. 24652, 24739, codified at 27 C.F.R. pts. 447, 478 and 479). Although “firearm precursor part” might be a relatively new term, the reference to the specific Penal Code section will assist with understanding its meaning. A plain language description of a “firearm precursor part” would likely be too cumbersome because of the two categories of such an item, i.e., a readily convertible item or a marketed/sold item. (Pen. Code, § 16531, subd. (a).)</p> <p>This recommended iteration is also more consistent with the wording in Penal Code section 16520, subdivision (b), which is the basis for including this language in these court forms. That language states: “As used in the following provisions, ‘firearm’ includes the frame or receiver of the weapon: weapon, including both a completed frame or receiver, or a firearm precursor part.” (Pen. Code, § 16520, subd. (b).) Although there is a separate statutory definition for a “federally regulated firearm precursor part” under Penal Code section 16519, it is unnecessary to mention that term because such an item is considered a firearm pursuant to</p>	<p>The committee believes a plain language description of a “firearm precursor part” is helpful to insure that restrained persons are as aware as possible of the prohibition.</p> <p>The committee agrees, in part, and has modified the reference to prohibited items to generally refer to: any firearms (guns), firearm parts, and ammunition. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).</p>
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## SP22-12

### Definition of *Firearm* (Forms CR-101, CR-102, and CR-210)

All comments are verbatim unless indicated by an asterisk (\*).

		<p>federal law, and thus would fall within the meaning of a “firearm.”</p> <p>With regards to the CR-210 form, it is recommended that the first sentence of the form, “Any reference to ‘firearm’ throughout this form includes receivers, frames, or unfinished receivers or frames, as defined in Penal Code section 16531,” be revised to the following: “Any reference to ‘firearm’ throughout this form includes receivers, frames, or firearm precursor parts (as defined in Penal Code section 16531).” The reasoning for this recommendation is the same as previously described for the recommended revisions to the CR-101 and CR-102 forms. Moreover, placing the “as defined in Penal Code section 16531” phrase in a parenthetical will clarify that section 16531 is relevant only to the definition of a firearm precursor part, not a receiver or frame.</p> <p>Another revision, unrelated to AB 1621, is also recommended for the CR-210 form. Specifically, more identifying information about the defendant described in the form would assist the BOF and local law enforcement agencies when this form is used to enforce the relinquishment order. Currently, the only requested identifying information in the CR-210 form is a blank space for the defendant’s name in the caption for the case title. A handwritten name, which typically lacks the defendant’s middle name, is nearly always insufficient to identify exactly who is the defendant. Thus, if the court finds the defendant falls into one of the</p>	<p>The committee agrees, in part, and has modified the reference to prohibited items to generally refer to: any firearms (guns), firearm parts, and ammunition. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).</p> <p>These comments are beyond the scope of the current proposal. The committee will defer consideration of these suggestions to a future proposal cycle.</p>
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## SP22-12

### Definition of *Firearm* (Forms CR-101, CR-102, and CR-210)

All comments are verbatim unless indicated by an asterisk (\*).

			<p>“Non-Compliance” categories listed on the form, a law enforcement agency would unlikely be able to use the form to retrieve the defendant’s firearms or obtain a search warrant because the agency could not use this form to identify the defendant.</p> <p>Accordingly, it is recommended that the following identifying information for the defendant be added to the CR-210 form: (1) full name; (2) date of birth; (3) driver’s license or other California identification number; (4) specifying whether the defendant is on formal or informal probation; and (5) if the defendant is on formal probation, whether the defendant is assigned to a probation officer.</p>	
2.	Superior Court of Orange County By Iyana Doherty, Courtroom Operations Supervisor	AM	<p>No specific comments will be submitted as Orange County has its own Tahl Form and committee approval process and these forms are still listed as optional</p> <p>If approved, we will look at modified language related to firearms and consider revisions to local forms during next review cycle</p> <p>No comments for CR-210</p>	The committee appreciates the comments.
3.	Superior Court of San Diego County By Mike Roddy, Executive Officer		<p><i>Does the proposal appropriately address the stated purpose?</i> Yes.</p> <p><i>Would the proposal provide cost savings? If so, please quantify.</i> No.</p> <p><i>What would the implementation requirements be for courts—for example, training staff (please</i></p>	The committee appreciates the comments.

## SP22-12

### Definition of *Firearm* (Forms CR-101, CR-102, and CR-210)

All comments are verbatim unless indicated by an asterisk (\*).

		<p><i>identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?</i> Revisions to internal procedures, local packets, and training for staff.</p> <p><i>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation, or would January 1 be a better effective date?</i> January 1, 2023 would be the preferred effective date since the forms are mandatory and the new law is already operative. It would benefit courts to have JCC approved forms prior to March 1, 2023.</p> <p><i>How well would this proposal work in courts of difference sizes?</i> It appears that the proposal would work for courts of all sizes.</p> <p>No additional comments.</p>	<p>The committee discussed the comment but recommends a March 1, 2023 effective date in order to give other courts sufficient time to implement the changes, based on the feedback of judicial administrators on the committee.</p>
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