

# SUPREME COURT OF WISCONSIN

## NOTICE

This order is subject to further editing and modification. The final version will appear in the bound volume of the official reports.

No. 07-11C

No. 14-02

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**07-11C In the Matter of the Review of the Discretionary Transfer of Cases to Tribal Court**

**FILED**

**SEP 1, 2015**

**14-02 In the Matter of the Petition to Amend/Dissolve Wisconsin Statute § 801.54 Discretionary Transfer of Civil Actions to Tribal Court**

Diane M. Fremgen  
Clerk of Supreme Court  
Madison, WI

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On July 31, 2008, this court created Wis. Stat. § 801.54. See S. Ct. Order 07-11, 2008 WI 114 (iss. Jul. 31, 2008, eff. Jan. 1, 2009) (Roggensack, J., dissenting), as amended, by S. Ct. Order 07-11A, 2009 WI 63 (Jul. 1, 2009) (Roggensack, J., dissenting).<sup>1</sup> On Monday, October 18, 2010, the court conducted a public hearing to review the operation of Wis. Stat. § 801.54. The majority of the court concurred that the rule was operating as expected and that no action was required.<sup>2</sup> See S. Ct. Order 07-11B, 2011 WI 53 (Jul. 1,

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<sup>1</sup> Effective May 1, 2015, Patience Drake Roggensack succeeded Shirley S. Abrahamson as Chief Justice of the Wisconsin Supreme Court. This order reflects the justices' respective titles at the time the events described herein occurred.

<sup>2</sup> Justice Patience Drake Roggensack stated her continuing concerns about the constitutionality of the rule as set forth in her dissent to the order. See Kroner v. Oneida Seven Generations Corp., 2012 WI 88, 342 Wis. 2d 626, 819 N.W.2d 264.

2011) (Roggensack, J., dissenting). The court voted to conduct another review of the rule in five years. Id.

On July 24, 2014, six individuals who are members of the Oneida Tribe of Indians of Wisconsin, namely, Nona Danforth, Candace Danforth, Kerry Danforth, Linda S. Dallas, Cathy L. Metoxen, and Amanda Gerondale,<sup>3</sup> filed rule petition 14-02 asking the court to repeal Wis. Stat. § 801.54. The petitioners state broad objections to Wis. Stat. § 801.54 and generally contend that their efforts to resolve their concerns with Oneida Tribal leadership have been unsuccessful.

The court discussed petition 14-02 at an open administrative rules conference on November 17, 2014. The court decided to consider petition 14-02 when it conducts its scheduled review of the operation of Wis. Stat. § 801.54.

The two rule petitions remain separate matters. However, they will be considered at a consolidated public hearing. With respect to rule matter 07-11C (the comprehensive review of Wis. Stat. § 801.54), the court invites the Wisconsin State-Tribal Justice Forum (Forum), as the original proponent of the discretionary transfer rule, to present the court with an update of the operation of Wis. Stat. § 801.54. The Forum will make the first presentation to the court at the consolidated public hearing. The Forum may designate who will make this presentation to the court. Next, the petitioners in rule

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<sup>3</sup> Amanda Gerondale has since been dismissed as a petitioner in this matter. See S. Ct. Order 07-11C & 14-02, 2015 WI 30 (Mar. 17, 2015).

petition 14-02 (seeking repeal of the rule) will address the court. The 14-02 petitioners may designate who will present their petition to the court.

The court invites the Wisconsin Department of Children and Families to appear at the hearing and present the court with an update of the operation of the rule in the context of its role facilitating the transfer of child support cases to Tribal IV-D programs.<sup>4</sup> After these three presentations, the court will invite public comment on both rule matters. The time allotted for public comment may be limited.

Therefore,

IT IS ORDERED that a consolidated public hearing on rule matter 07-11C and rule petition 14-02 shall be held in the Supreme Court Room in the State Capitol, Madison, Wisconsin, on November 10, 2015, at 9:30 a.m.

IT IS FURTHER ORDERED that the court's conference in the matter shall be held promptly following the public hearing.

IT IS FURTHER ORDERED that notice of the hearing be given by a publication of a copy of this order and of the petition in the official state newspaper once each week for three consecutive weeks,

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<sup>4</sup> On July 1, 2009, this court granted the request of the Wisconsin Department of Children and Families and amended Wis. Stat. § 801.54(1) to facilitate transfer of post-judgment child support cases to tribes under certain circumstances. See S. Ct. Order 07-11A, 2009 WI 63 (Jul. 1, 2009) (Roggensack, J., dissenting).

and in an official publication of the State Bar of Wisconsin not more than 60 days nor less than 30 days before the date of the hearing.

Dated at Madison, Wisconsin, this 1st day of September, 2015.

BY THE COURT:

Diane M. Fremgen  
Clerk of Supreme Court

No. 07-11C  
No. 14-02