

Wisconsin Justice Initiative



Deputy Clerk-Rules
P.O. Box 1688
Madison, WI 53701-1688

Nov. 25, 2020

Comments on Rule Petition 20-03, Petition for Proposed Rule to Amend Wis. Stat. § 809.70

The proposed petition should not be adopted for several reasons.

1. Some of the provisions of the proposed rule are too vague to provide the public with assurance that they will not be employed in a manner that gives a party or candidate an advantage. Paragraph (e), for example, provides for the Supreme Court to refer a dispute to a circuit court or referee to take oral testimony, but establishes no standard or process for the selection of the court or referee. The perception of “court shopping” by one or more justice can only damage the image of the Court.
2. The proposal seeks to allow the Court to significantly limit the public’s right to participate in redistricting cases. Only the Assembly, Senate, governor, and political parties would be guaranteed participation; any other group or individual would have to win permission to participate in a case about a function fundamental to the democratic process. This is an unnecessary, thoroughly anti-democratic restriction.
3. The rule would require almost *any* redistricting lawsuit to start in the Supreme Court, bypassing lower courts and federal courts entirely. It would also allow a case to be filed *before* there is an actual dispute. This rushes the process unnecessarily, limiting crucial review of the issues.
4. The proposal ultimately allows the Court to develop its own redistricting proposal, establish many of the rules for any public comment on the proposal, and approve the proposal. The petition leaves it unclear whether non-governmental interested groups or individuals would be allowed to file formal objections to any Court map or have any say on it at all, as their right to participate would be so severely limited under the proposed petition.

Thank you for your consideration.

Gretchen Schuldt,
Executive Director
Wisconsin Justice Initiative