
In re the matter of AMENDING SCR 70.14 (1)(k), 70.155 (4), (5), 70.19 (3)(c), 70.20 (2), 70.21 (4), (5), (9), (14), (16), (16e), (16s), (17e), 70.23 (4), 70.24 (2), 70.31, 70.36 (1)(a), (1)(b), 70.40(2)(bm), CREATING SCR 70.14 (1)(l), 70.21 (8w), (20s), AND REPEALING SCR 70.21(6), (17), (17m)

**SUPPORTING MEMORANDUM
24-03**

FILED

JUN 19 2024

**CLERK OF SUPREME COURT
OF WISCONSIN**

The Director of State Courts respectfully petitions the court to amend, create and repeal parts of Supreme Court Rule Chapter 70 pertaining to rules of judicial administration. This petition is submitted pursuant to the court's rulemaking authority under Wis. Stat. §751.12 and its administrative authority over all courts conferred by Article VII, § 3 of the Wisconsin Constitution.

I. PROCEDURAL HISTORY

In August 2023, the Committee of Chief Judges created a Supreme Court Rules/Trial Court Administration Subcommittee to review Supreme Court Rule Ch. 70 (Judicial Administration) and the Rules on Trial Court Administration for updates and revisions. The subcommittee's membership represented a cross-section of chief judges, district court administrators, and court operations staff. Over the course of five months, the subcommittee met several times to discuss various changes to Supreme Court Rule Ch. 70, including: Planning and Policy Advisory Committee membership, translation of court forms by interpreters, and the Director of State Courts' ability to extend the period specified in SCR 70.36(1)(a) for submitting a matter for decision. The Committee of Chief Judges approved the subcommittee's recommendations to amend, create and repeal parts of Supreme Court Rule Chapter 70 at its February 2024 meeting.

II. PROPOSED SUPREME COURT RULE CHAPTER 70 CHANGES

The proposed amendments can be grouped into six general categories: (1) Planning and Policy Advisory Committee, (2) translation of court forms, (3) timeline to submit a matter for decision, (4) statutory revisions, (5) formatting corrections, and (6) other miscellaneous changes. This supporting memorandum will provide an explanation of the proposed changes by addressing each category of changes. For the reasons provided below, Supreme Court Rule Ch. 70 should be amended as follows:

Planning and Policy Advisory Committee

The Planning and Policy Advisory Committee (PPAC) currently includes one court commissioner member. This petition proposes modifying SCR 70.14(1)(k) to add a second circuit court commissioner member. This change will allow concurrent representation from the Wisconsin Family Court Commissioners Association and the Wisconsin Association of Judicial Court Commissioners, rather than alternating membership appointments between these two groups, per the current rule. The Planning and Policy Advisory Committee discussed this proposed change in November 2023 and voted unanimously in favor.

An additional proposed change is to create SCR 70.14(1)(l) to formally add a chief judge designee from the Committee of Chief Judges as an formal PPAC member. Although PPAC has included a chief judge member in an informal capacity for several decades, this change would codify chief judge representation on the committee. The Planning and Policy Advisory Committee also discussed this proposed change in November 2023 and voted unanimously in favor.

Translation of Court Forms

Under the Code of Ethics for Court Interpreters, interpreters can render interpretation or sight translation.¹ The proposed change to SCR 70.155(4) clarifies this limitation by specifying that interpreters may provide sight translation consistent with SCR Ch. 63.07. The current language of SCR 70.155(4) does not clearly specify this limitation, and the Court Interpreter Program Manager has received questions from interpreters regarding what it means for an interpreter to fill out forms, as stated in the current rule. The Court Interpreter Program Manager supports this modification. Additionally, SCR 70.155(4) is modified to remove the specification of in-court proceedings, since proceedings may be held remotely using interpreters.

SCR 70.155(5) is modified to specify that written translation of a form shall be accompanied by an affidavit. This change is recommended to distinguish the type of translation in this subsection from sight translation in subsection (4) of the Rule.

Timeline to submit a Matter for Decision

SCR 70.36(1)(a) is modified to incorporate the requirement in Trial Court

¹ SCR 63.01

Administration Rule 14, which requires that parties are notified in writing when the period of time to decide a matter has been extended for an additional 90 day period, as authorized by SCR 70.36(1)(a). The proposed change is recommended to codify this notification procedure.

Additionally, the proposed modification to SCR 70.36(1)(b) changes the ability to extend the period specified in SCR 70.36(1)(a) from the Supreme Court to the Director of State Courts. This change is intended to keep this administrative function with the Director and eliminate any perceived conflict, since the Supreme Court could hear the case as a discipline matter after the extension.

Statutory Revisions

The proposed changes to SCR 70.21(4), 70.21(5), 70.21(8w), 70.21(9), 70.21(6), 70.21(14), 70.21(16s), 70.21(17), 70.21(17e), and SCR 70.21(20s) are intended to update the rules to be consistent with current statutory language, authority and citations.

Formatting Corrections

SCR 70.20(2), 70.16(16), and 70.40(2)(bm) are modified to correct formatting errors.

Miscellaneous Changes

70.19(3)(c):

SCR 70.19(3)(c) is modified to give the chief judge the authority to establish the location for court operation where necessary. This change is intended to involve the chief judge in their administrative role when emergencies under Wis. Stat. 757.12 occur.

70.21(16e) and 70.21(17m):

SCR 70.21(16e) is modified to make a generic reference to Wis. Stat. § 757.68 regarding the authority of the chief judge to remove and appoint circuit court commissioners and to be consistent with current statutory language. With this change, SCR 70.21(17m), which also references Wis. Stat. § 757.68 and appointment of circuit court commissioners, is repealed to eliminate duplicative statutory authority.

SCR 70.23(4):

SCR 70.23(4) is modified to eliminate language on assignment of judges by lot under a tab system, because the tab system is obsolete and is no longer used as a method of assigning judges.

SCR 70.24(2)

SCR 70.24(2) is modified to provide that the chief judge shall inform the chief judge of the reserve municipal judge's district before making an assignment of a reserve municipal judge. This change creates a less burdensome way to provide notification of the reserve municipal judge assignment, since the current "shall consult" language implies a formal discussion should take place between the chief judge and the chief judge of the reserve municipal judge's district.

SCR 70.31:

SCR 70.31 is modified to allow a chief judge to request additional lists of district court administrator candidates so a chief judge is not limited to one list of candidates.