

CHAPTER SCR 71

REQUIRED COURT REPORTING

SCR 71.01 Reporting.
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SCR 71.04 Transcripts.
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Note: SCR Chapter 71 was adopted January 17, 1985. Amended January 1, 1998; September 12, 1997; June 1, 1998; July 1, 2002; January 1, 2003; January 1, 2010; January 1 2011; July 1 2016.

SCR 71.01 Reporting. (1) "Reporting" means making a verbatim record.

(2) All proceedings in the circuit court shall be reported, except for the following:

(a) A proceeding before a court commissioner that may be reviewed de novo;

(b) Settlement conferences, pretrial conferences, and matters related to scheduling;

(c) In a criminal proceeding, a matter preceding the filing of a criminal complaint.

(d) If accompanied with a certified transcript, videotape depositions offered as evidence during any hearing or other court proceeding.

(e) Audio and audiovisual recordings of any type, if not submitted under par. (d), that are played during the proceeding, marked as an exhibit, and offered into evidence. If only part of the recording is played in court, the part played shall be precisely identified in the record. The court may direct a party or the court reporter to prepare the transcript of a recording submitted under this paragraph.

(3) The director of state courts shall develop rules for the use of alternative means of making a verbatim record.

History: Sup. Ct. Order No. 96–17, 209 Wis. 2d xiii; Sup. Ct. Order No. 97–11, 216 W (2d) xxxi (1998); Sup. Ct. Order No. 01–14, 2002 WI 46, 251 Wis. 2d xiii; Sup. Ct. Order No. 09–05, 2009 WI 104, 319 Wis. 2d xiii; Sup. Ct. Order No. 10–06, 2010 WI 128, 329 Wis. 2d xxvii.

SCR 71.02 Recording. (1) In this rule, "recording" means the making of a record comprised of notes or minutes prepared by the clerk or other person directed by the court.

(2) There shall be a recording of all court proceedings. In initial appearances, a recording of the court's advice and the defendant's reply shall be made by the clerk or other person directed by the court.

SCR 71.03 Reporters' notes or other verbatim record. The original notes of all court reporters or other verbatim record, made in open court or pursuant to an order of the court, constitute part of the records of the court in which made and are not the property of the court reporter.

SCR 71.04 Transcripts. (1) Reporters' notes or other verbatim record need not be transcribed unless required by this rule, any statute or court order.

(2) The original transcript of any proceeding, whether complete or partial, shall be filed with the court. The cost of such transcript shall be borne as provided in this rule and in s. 814.69 stats. Any unedited, uncertified transcript furnished pursuant to 71.04 (9) (b) is not the official record.

(3) A court may order the reporter to transcribe and file all or any part of the testimony and proceedings in any action or proceeding in the court.

(4) Except when requested by a party or by a guardian ad litem appointed in the proceedings, reporters' notes or other verbatim

record of proceedings under ch. 48, 767, and 938 of the statutes shall be transcribed only upon order of the court.

(5) (a) When a defendant is sentenced to a state prison, the original transcript of any portion of the proceedings relating to the prisoner's sentencing shall be filed with the court and a certified duplicate shall be filed at the institution within 120 days from the date that the sentence is imposed.

(b) The original transcript of all other testimony and proceedings upon order of the court shall be filed with the court and a certified duplicate shall be delivered to the prisoner within 120 days of the prisoner's request made to the clerk of court.

(c) The original transcript of all other testimony and proceedings upon order of the court shall be filed with the court and a certified duplicate shall be delivered to the institution within 120 days of its request made to the clerk of court.

(d) Filing and delivering transcripts under this rule is the responsibility of the clerk of court.

(6) Except as provided in sub. (4), every reporter, upon the request of any party to an action or proceeding, shall make a type-written transcript, and as many duplicates thereof as the party requests, of the testimony and proceedings reported by him or her in the action or proceeding, or any part thereof specified by the party, the transcript and duplicate thereof to be duly certified by him or her to be a correct transcript thereof. Any unedited, uncertified transcript furnished pursuant to 71.04 (9) (b) is not the official record.

(7) In any action in which the court orders a compulsory reference, the court may direct the reporter thereof to attend the referee's hearing, report the testimony and proceedings and furnish a typewritten transcript thereof to the referee.

(8) (a) For purposes of this rule a page other than the final page of a transcript shall consist of any 25 or more consecutive type-written lines, double-spaced, on paper 8–1/2 inches in width by 11 inches in length, with a margin of not more than 1–1/2 inches on the left and five-eighths of an inch on the right, exclusive of lines disclosing page numbering; type shall be standard pica with 10 letters to the inch. Questions and answers shall each begin a new line. Indentations for speakers or paragraphs shall be not more than 15 spaces from the left margin.

(b) A court reporter shall include an index immediately following the title and appearance page(s) for each transcript of a proceeding in which testimony is taken or in which an index would be helpful in locating distinct segments of a proceeding, such as:

1. Jury voir dire;
2. Opening statements;
3. Witness names in chronological order of appearance, including all witnesses on direct, cross, redirect, recross, rebuttal, and surrebuttal examinations; and witnesses subject to witness voir dire; and examination by the court;
4. The numbers and a description of each exhibit offered and received;
5. Closing arguments;
6. Instructions and verdict given to the jury;
7. Receipt of the verdict or rendering of the court's decision;
8. Polling of the jury; and

9. Sentencing.

(9) A reporter may make a special charge, pursuant to an arrangement with the requesting party, for furnishing any of the following:

(a) Typewritten transcripts of testimony and proceedings from day to day during the progress of any trial or proceedings.

(b) Unedited and typewritten or electronic draft versions of testimony or proceedings.

(10) (a) If a transcript of any court proceeding is required to be provided under a statute, rule or court order and the original reporter is unavailable to the court having jurisdiction in the matter to be transcribed, the court may order that another reporter prepare the transcript.

(b) A court reporter who prepares a transcript under par. (a) shall certify that it is a verbatim transcript of the proceedings as recorded in the notes or other verbatim record of the original court reporter.

(c) A court reporter who prepares a transcript under par. (a) shall receive fees as if he or she were the original court reporter under sub. (11) and section 814.69 of the statutes.

(10m) (a) If before trial the court approves a stipulation by all parties, an independent, freelance reporter may take the official record, or a portion of the official records, upon taking the official oath of office.

(b) If after trial the court approves a stipulation by all parties, an independent, freelance reporter's record of proceedings may be the official record or a portion of the official record.

(c) Before approving a stipulation under par. (a) or (b), the court shall consider the availability of an official reporter, including the ability of the official reporter to meet requests for providing daily transcripts.

(d) An independent, freelance reporter authorized under par. (a) or (b) shall comply with all of the requirements under this chapter relating to the production of an official record and transcripts and charges for transcripts.

(11) For all transcripts furnished under this rule, the court reporter shall be entitled to receive fees as prescribed in section 814.69 of the statutes.

(12) Upon request and payment for a certified paper copy of a transcript, a court reporter may provide an electronic copy of the transcript. A reporter may charge an additional \$10 for the electronic copy of the transcript.

(13) A court reporter may certify a transcript that has been redacted in accordance with s. 801.19 or s. 801.21, stats., by stating that the redacted version is a verbatim transcript from which information has been redacted or sealed in accordance with those rules or as ordered by the circuit court.

History: Sup. Ct. Order No. 97–04, 212 W (2d) xiii (1997); Sup. Ct. Order No. 01–14, 2002 WI 46, 251 Wis. 2d xiii; Sup. Ct. Order No. 02–01, 2002 WI 120, 255 Wis. 2d xiii; Sup. Ct. Order No. 14–04, 2015 WI 89, filed 8–27–15, eff. 7–1–16.

Judicial Council Note, 2002: SCR 71.04 (4) is amended to allow the parties to proceedings, and guardians ad litem appointed in the proceedings, under ch. 48, 767, and 938 of the statutes to obtain transcripts without obtaining a court order authorizing the court reporter to prepare the transcript. The rule requires non-parties to the action or proceeding to obtain a court order before transcripts can be prepared. The amendment protects the privacy interests of the parties to such proceedings, and promotes more efficient use of resources by the courts, the court reporters, counsel and the parties. The amendment also harmonizes the rule with existing statutes and case law. Section 809.30 (2) (fm) provides that any child or juvenile pursuing post-judgment relief in a ch. 48 or 938 proceeding "shall be furnished at no cost" the transcript or record of the proceeding. Section 967.06 provides that in "any" public defender case, the public defender may request the applicable court reporter or circuit court clerk to prepare and transmit any transcript or court record and that the request "shall be complied with." *State ex rel. S.M.O. v. Resheske*, 110 Wis. 2d 447, 454, 329 N.W.2d 275, 277–78 (Ct. App. 1982), holds that s. 967.06 "takes precedence" over general confidentiality provisions in the statutes and creates a clear duty to prepare and transmit the transcript when requested pursuant to the statute.

SCR 71.05 Alternative means of reporting. (1) The person reporting a court activity or proceeding may use electronic means if any of the following conditions is met:

(a) The chief judge of that district gives prior approval in high-volume court proceedings where transcripts are requested infrequently.

(b) After a reasonable effort to locate a court reporter is made, a court reporter is not available.

(c) The circuit court judge, with the approval of the chief judge of that district, determines that the use of electronic means is necessary.

(2) The electronic record shall be maintained in compliance with SCR 72.05 for the length of time required in SCR 72.01 (47) or for the time required for the case type under SCR 72.01, whichever is shorter.

(3) If a transcript of any proceeding that is electronically recorded under sub. (1) is required, the court shall order that a transcript be prepared. The court reporter who prepares the transcript under this subsection shall certify that it is a verbatim transcript of the electronic recording of the proceeding. Transcripts under this subsection shall comply with SCR 71.04.

(4) The director of state courts shall promulgate standards governing the use of electronic reporting.

History: Sup. Ct. Order No. 97–11, 216 W (2d) xxxi (1998).