

**1999 DRAFTING REQUEST****Bill**Received: **09/10/98**Received By: **nelsorpl**Wanted: **Soon**

Identical to LRB:

For: **Director of State Courts 6-6984**By/Representing: **Sheryl Gervasi**

This file may be shown to any legislator: NO

Drafter: **nelsorpl**

May Contact:

Alt. Drafters:

Subject: **Courts - courts/judges**

Extra Copies:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Court commissioners

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**Instructions:**

See Attached-- 97-5 132

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Resuired</u>
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/P2	nelsorp 1 11/17/98	gilfokm 11/17/98	hhagen 11/17/98	_____	lrb-docadmin 11/17/98		
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/1	nelsorp 1 02/6/99	gilfokm 02/6/99	haugeca 02/9/99	_____	lrb-docadmin 02/9/99		
/2	nelsorp 1	gilfokm	martykr	_____	lrb-docadmin		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typist</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Reauired</u>
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/3	nelsorp 1 05/19/99	gilfokm 05/19/99	haugeca 05/20/99	_____	lrb_docadmin 05/20/99	lrb_docadmin 05/20/99	

FE Sent For:

<END>

Not Needed  
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**Topic:**

Court commissioners

**Instructions:**

See Attached-- 97-5 132

*5/19 Cheryl - P. 90, L 11  
fix x-ref da problem*

**Drafting History:**

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/2	nelsorp 1	gilfokm	martykr	_____	lrb-docadmin		

*Jacket for Assembly*

*13-5-1999  
KMG*

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typist</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Rewired</u>
	02/23/99	02/23/99	02/23/99	_____	02/23/99		

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**Topic:**

Court commissioners

**Instructions:**

*2/23*

*Bill Mann madson suggested changes*

See Attached-- 97-5 132

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Reauired</u>
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*12-2-23-99*

*2/23 km/23*

*1/12/23 km/23*

FE Sent For:

<END>

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By/Representing: **Sheryl Gervasi**

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Drafter: **nelSORpl**

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Subject: **Courts - courts/judges**

Extra Copies: **PJK**

**Topic:**

Court commissioners

**Instructions:**

See Attached-- 97-5132

*2/5 & 2/6 searched "the family",  
"compensation", "the court or family" & "the  
judge" or "*

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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FE Sent For: *1-2-698* *ck 2-9* *ck wk 2-9*  
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Subject: Courts - courts/judges

Extra Copies: PJA

Topic:

Court commissioners

Instructions:

See Attached-- 97-5 132

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FE Sent For:

P3-12-18  
KMG

12/21  
L.P.

12/21  
L.P. JF  
<END>

\*\*\* NOTES

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May Contact:

Alt. Drafters:

Subject: **Courts - courts/judges**

Extra Copies:

*PJK  
GMM*

#### Topic:

Court commissioners

#### Instructions:

See Attached-- 97-5 132

#### Drafting History:

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FE Sent For: */p2-11-17  
KMG* *HH 11/17* *HH JF 11/17*

**\*\*\*NOTES** <END>



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Subject: **Courts - courts/judges**

Extra Copies:

*PJK, GMM*

**Topic:**

Court commissioners

**Instructions:**

See Attached-- 97-5 132

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1?	nelsorpl	1/11/11 KG	# 12/13	# JF 11/16/17	<u>yes</u>		
		***NOTES					

FE Sent For:

<END>

**1997 DRAFTING REQUEST**

**Bill**

Received: **03/13/98**

Received By: **nelsorpl**

Wanted: **As time permits**

Identical to LRB:

For: **Scott Walker (608) 266-9180**

By/Representing: **Ed Eberle**

This file may be shown to any legislator: **NO**

Drafter: **nelsorpl**

May Contact:

Alt. Drafters:

Subject: **Courts - courts/judges**

Extra Copies: *PJK, GMM  
Dir of State Courts*

**Topic:**

Qualifications, responsibilities and appointment of court commissioners

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	nelsorp 1 03/26/98	ygeller 04/15/98	martykr 04/15/98	_____	lrb_docadmin 04/15/98		
FE Sent For:		<i>P2-5-21-98 JG (Sec. Affected NOT done)</i>	<i>LP. 522</i>	<i>LP 5-22 CH &lt;END&gt;</i>			

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May Contact:

Alt. Drafters:

Subject: **Courts - courts/judges**

Extra Copies:

**Topic:**

Qualifications, responsibilities and appointment of court commissioners

*search "court  
commissioner" "court  
commissioners"*

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Reaired</u>
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J? nelsorp 1

*P1-4-13-98 XG*

*Jm 4/5*

*es 4/5  
Jm 4/5*

FE Sent For:

*\*\*\*\* NOTES*

<END>

*Please -  
submit*



**Scott Walker**  
Wauwatosa's Representative in the Wisconsin State Assembly

3-12-98

Bob,

Scott would like this drafted  
so it can be introduced as soon  
as possible.

Thank you.

- Ed Eberle

*Municipal Court Commissioners  
Circuit Court Commissioners  
Supplemental Court Commissioners*

**Ct. Commissioner Bill  
Draft D  
2/23/98**

# A BILL

*Jim Fullin*

To create, amend and repeal statutes, relating to the qualifications, appointment, evaluation, supervision and discipline of judicial court commissioners.

*The people of the state of Wisconsin, represented in Senate and Assembly, do enact as follows:*

*John Velcor - Sects*

**PREFATORY NOTE:** This bill was developed by the Supreme Court Planning and Policy Advisory Committee. Its purpose is to simplify the statutes relating to the appointment, supervision, powers and duties of court commissioners. The bill harmonizes statutory terminology with that used in SCR Chapter 75, rules adopted by the Supreme Court relating to the same subject. Under those rules and this bill, there are two kinds of court commissioners, judicial and supplemental. Judicial court commissioners can be authorized and made responsible to conduct a wide range of quasi-judicial activities including preliminary examinations in felony cases, setting interim orders in actions **affecting** the family, adjudicating small claims, holding periodic status reviews of protective placements, etc. Supplemental court commissioners have only limited ministerial powers such as officiating at marriage ceremonies or financial discovery **proceedings** against judgment debtors. However, the chief judge can assign them specific responsibilities of judicial court commissioners on a temporary or occasional basis. This bill eliminates most of the statutory distinctions between **“full-time”** and **“part-time”** court commissioners and substitutes the terminology of SCR Chapter 75, in recognition of the fact that not all judicial court commissioners serve in that capacity full-time.

SECTION I. 48.065 (1) of the statutes is amended to read:

**48.065. Juvenile court commissioners.** (1) The board of supervisors of any county may authorize the chief judge of the judicial administrative district to appoint one or more judicial court commissioners under SCR 75.02 to serve part-time or full-time as juvenile court commissioners ~~who shall serve in the discretion of the chief judge. A juvenile court commissioner~~

~~shall be licensed to practice law in this state and shall have been so licensed for at least 2 years immediately prior to appointment and shall have a demonstrated interest in the welfare of children~~

The chief judge may assign law clerks, bailiffs and deputies to the court **commissioner**. The chief judge shall supervise ~~juvenile court commissioners~~, law clerks, bailiffs and deputies, except that the chief judge may delegate any of those duties.

NOTE: The amended statute requires that juvenile court commissioners be appointed under SCR 7502. SCR Chapter 75 specifies the qualifications, manner of appointment, supervision and discipline of judicial court commissioners, rendering statutory specification of these matters surplusage.

SECTION 2. 63.03 (2) (z) of the statutes is amended to read:

**63.03(2) (z) Full-time Judicial** court commissioners under s. ~~757.68(1)~~ o n qualified and acting as a judicial court commissioner on August 1, 1978, shall be deemed a full-time judicial court commissioner and shall continue in the classified county civil service but any new appointee shall be in the unclassified (exempt) civil service.

**NOTE:** This bill clarifies that judicial court commissioners may be appointed to perform their duties either full-time or part-time. Paragraph (2) (z) is amended to specify that in either event, their positions are within the unclassified civil service. The last sentence formerly appeared in s. 757.68 (1).

SECTION 3. 757.68 **(1)** of the statutes is repealed.

NOTE: The substance of the repealed subsection is retained in new s. 757.68. See **SECTION 6** of this bill. The repealed statute **read** as follows:  
“(1) Appointment. (a) Except as provided in par. **(b)**, counties having a population of 100,000 or more may create the office of full-time court commissioner. The county board shall establish the number of positions and set the salary for the office. Any person qualified and acting as a judicial court commissioner on August 1, 1978, shall be deemed a full-time court commissioner and shall continue in the classified county civil service but any new appointee shall be in the unclassified (exempt) civil service. The chief judge shall be the appointing and supervising authority and may terminate the employment of any such commissioner if cause is proven. The chief judge may delegate any such supervising authority. The full-time court commissioners shall be attorneys licensed to practice in this

state. Each court commissioner shall take and file the official oath in the office of the clerk of the circuit court of the county for which appointed before performing any duty of the office.

**(b)** In counties having a population of 500,000 or more, the county board shall establish at least one W-time court commissioner position under par. (a) to assist in the administration of the procedures for small claims type actions under ch. 799. In counties having a population of less than 500,000, the county board may establish one or more part-time or **full-time** court commissioner positions under par. (a) to assist in the administration of small claims type actions under ch. 799. Any **court** commissioner appointed under this paragraph **shall** be an attorney licensed to practice in this state.”

SECTION 4. Section 757.68 (2) and **(5)** of the statutes are renumbered 753.36 (1) and (6) and amended to read:

**753.36 Supplemental court commissioners.** (1) In each county the circuit judges shall appoint such number of ~~part-time supplemental~~ court commissioners as the proper transaction of business requires ~~subject to the following exception: except that~~ in counties having a population of 200,000 or more each judge may appoint not more than 2 such commissioners ~~and in counties have a population of less than 200,000 each judge shall, as nearly as possible, appoint an equal number of commissioners within the county.~~ In all counties the appointments shall be subject to the approval of a majority of the circuit judges for the county. Appointments shall be in writing and shall be filed in the office of the clerk of the circuit court. All court commissioners appointed after May. 16, 1978, other than **official** court reporters acting under s. **814.68(1)(b)** performing duties or exercising powers specified for court reporters, shall be attorneys licensed to practice in this state. The appointing judge may remove, at will and without cause, any ~~court~~ <sup>supplemental</sup> commissioner appointed by the judge or the judge's predecessor in office. Unless he or she is so removed, the term of ~~each~~ <sup>supplemental</sup> court commissioner shall continue until the expiration of the term of the appointing judge ~~and until the successor of the commissioner is appointed and qualified.~~ <sup>supplemental</sup> Each ~~court~~ <sup>supplemental</sup>

commissioner shall take and file the official oath in the office of **clerk** of the circuit court of the county. for which appointed before performing any duty of the office.

(6) ~~FEES. Part-time~~ Supplemental court commissioners ~~appointed under sub. (2)~~

**shall collect the** fees prescribed in s. 814.68 (1).

**NOTE:** This bill eliminates most statutory distinctions between MI-time and part-time court commissioners, and substitutes the concepts of “judicial court commissioners” (who may be employed as **such** either full-time or part-time) and “supplemental court commissioners,” who perform only the duties specified by this section unless authorized by the chief judge under 75.02 to perform the duties of a judicial court **commissioner** specified in SCR 75.03 on a temporary or occasional basis. Subsections (1) and (6) are based on priors. 757.68 (2) and (5). Subsections (2) through (5) are created in SECTION 9 of this bill.

SECTION 5. 757.68 (3) and **(4)** of the statutes are repealed.

**NOTE: Subsection** (3) was redundant with s. 807.09 (1). Subsection (4) allowed former county court judges to be appointed as court commissioners. Eligibility is governed by SCR Ch. 75.

SECTION 6. 757.68 of the statutes is created to read:

**757.68 Judicial court commissioners.** In every county organized for judicial purposes, the county board shall establish within the unclassified service the position of family court commissioner and such additional ~~judicial~~ <sup>circuit</sup> court commissioner positions as needed for the **efficient** administration of judicial business within the **circuit courts** of the county. The position of a family court commissioner and additional <sup>circuit</sup> court commissioners may be **full-time** or part-time. In counties having a population of 500,000 or more, at least one such MI-time position shall be established to assist in the administration of actions under ch. 799. The county board shall set the salary for the position. <sup>{/@</sup> Each ~~judicial~~ <sup>circuit</sup> court commissioner shall take and **file** the official oath in the office of the clerk of the circuit court of the county for which appointed before performing any



duty of the office. Judicial court commissioners shall be qualified, appointed, supervised, trained, **evaluated** and subject to discipline under SCR Ch. 75.

NOTE: The revised section carries **forward** the substance of prior ss. 757.68 **(1)**, **48.065**, **757.72**, and 767.13. It retains county board authority over the number **of judicial court commissioners positions in each county, and their salary**. Eligibility, **appointment, supervision**, training, evaluation and discipline is now governed by SCR Ch. 75.

SECTION 7. 757.69 (1) **(intro.)** of the statutes is repealed and recreated to read:

757.69 (1) The order appointing a judicial court commissioner under SCR 75.02 shall either confer **all** powers and duties allowed court commissioner by statute, or shall specify duties which the commissioner is authorized to perform, **including** but not limited to the following:

**NOTE: Revised** sub. (1) (intro.) simplifies language without substantive change.

SECTION 8. 757.69 (1) **(b)** and (2) (intro.) are amended to read as follows:

757.69 (1) **(b)** In criminal matters issue summonses, arrest warrants or search warrants and conduct initial appearances of persons arrested and set bail ~~to the same extent as a judge. At the initial appearance, the commissioner shall, when necessary,~~ inform the defendant in accordance with s. 970.02(1). ~~If the defendant appears or claims to be unable to afford counsel, the court commissioner, in accordance with s. 970.02(6), may, and~~ refer the person to the authority for **indigency** determinations **specified** under s. 977.07(1). ~~a full-time A judicial court commissioner-~~ may conduct the preliminary examination and arraignment ~~to the same extent as a judge~~ and, with the consent of both the state and the defendant, may accept a guilty plea. If a court refers a disputed restitution issue under s. **973.20(13)** (c) 4, the court commissioner shall conduct the hearing on the matter in accordance with s. 973.20 (13) (c) 4.

(2) (intro.) A judge may refer to a **judicial court** commissioner appointed under s.

~~48.065, 757.68, 757.72, 767.13 or 938.065~~ SCR 75.02 cases in which:

NOTE: The prior statute referenced five specific statutes under which court commissioners were appointed, This **bill** substitutes a **reference** to “judicial court commissioners appointed under SCR 75.02.” Because judicial court commissioners include those appointed to assist in juvenile, family, small claims and probate court, no substantive change is intended.

SECTION 9. 757.69 (3) to (5) and (7) of the statutes are renumbered 753.36 (2) to (5)

and amended to read:

753.36 (2) **Court Supplemental** court commissioners ~~appointed under s. ~~48.065,~~~~

~~757.68, 757.72 or 767.13~~ may under their own authority:

(a) Officiate at marriage ceremonies throughout the state.

(b) Issue subpoenas and attachments or other process to compel the attendance of witnesses, administer oaths and affidavits, take depositions and testimony when authorized by law or rule or order, and certify and report the depositions and testimony.

(c) Issue the following writs returnable before a judge at a time set by the judge or the judge’s clerk: habeas corpus; certiorari; ne **exeat** and alternative writs of mandamus.

(d) Supervise accountings subsequent to a sale of land under ch. 75.

(e) Issue subpoenas returnable before a judge on behalf of the Wisconsin department of justice for antitrust violations under s. 133.11(1) or violations of ss. 563.02 to 563.80 under s. **563.71(1)**.

(f) Investigate and dispose of unclaimed property under ss. 17.1.04 to 17.1.06.

(g) Except as provided in s. 767.13 (5) (c), conduct a paternity proceeding according to the procedures set out in ch. 767 whenever a court commissioner is specifically authorized to

do so.

(h) Conduct supplementary hearings on the present financial status of a debtor and exercise the powers of the court under ss. 8 **16.04, 8** 16.08 and 8 16.11.

(1) Take and **certify** acknowledgments.

(3) **In** addition to the duties expressly set forth in ~~sub. (3)(a) to (c)~~ (2), a **supplemental** court commissioner may **perform** other ministerial duties as required by a court.

(4) A **supplemental court** commissioner may transfer to a court any matter in which it appears that justice would be better **served** by such a transfer.

(5) A **supplemental** court commissioner shall refer to a court of record for appropriate action every alleged showing of contempt in the carrying out of the **lawful** decisions of the commissioner.

**NOTE: Subsections** (2) to (5) are based on prior s. 757.69 (3), (4) (5) and (7).

SECTION 10. 757.69 (6) of the statutes is repealed.

**NOTE: The** repealed provision read as follows: “Every judge of a court of record has the powers and duties of a court commissioner.” The powers and duties of circuit court judges derive **from** Art. **VII**, s. 8 , Wis Const.

SECTION 11. **757.69 (3)** of the statutes is created to read:

**757.69 (3)** In addition to the powers and duties specified in the order of appointment, every judicial court commissioner has the powers specified in s. 753.36 (2).

SECTION 12. 757.695 of the statutes is renumbered 799.08 and amended to read:

**799.08. Court commissioners; authority.** ~~If a~~ **A** judicial court commissioner ~~has been appointed under s. 757.69(1)(b)~~ **is** authorized to assist in the administration of ~~small-claims matters; the commissioner~~ **small-claims matters under this chapter** shall conduct the hearings and proceedings

as prescribed by ~~ch. 799~~ this chapter and ~~shall have the following additional duties and authority~~  
may:

- (1) Grant and enter default judgments and approve stipulations.
- (2) Conduct conferences and hearing with the parties or their attorneys or both on the return dates and adjourned dates, if any.
- (3) Issue decisions in matters that come before the commissioner. The decisions shall become judgments under s. **799.207(2)**.

**NOTE:**This section is prior s. 757.695, renumbered.

SECTION 13. **757.72** (4) of the statutes is repealed and recreated to read:

757.72 (4) Probate court commissioners shall be judicial court commissioners qualified, appointed, evaluated, supervised and subject to discipline under SCR chapter 75.

NOTE:The repealed statute specified matters now covered by SCR Chapter 75.

SECTION 14.757.81 (2) of the statutes is amended to read:

757.81 (2) “Court commissioner” means a judicial court commissioner ~~under s. 757.68, a family court commissioner under s. 767.13, a juvenile court commissioner under s. 48.065 or 938.065 and a probate court commissioner under s. 757.72~~ or a suolemental court commissioner authorized under 75.02 (2) to perform duties specified under SCR 75.03 on a temporary or occasional basis.

**NOTE:**Subsection (2) is amended to reflect the terminology used in SCR 75.

SECTION 15757.16 (5) of the statutes is amended to read:

765.16 (5) Any ~~family court commissioner appointed under s. 767.13~~ or judicial or suolemental court commissioner appointed under s. 757.68 .

**NOTE: Subsection (5)** is amended by insertion of terms defined in s. 990.01 (17r) and (40m). No substantive change is intended.

SECTION 16.767.13 (title), (1) and (2) (a) of the statutes are amended to read:

**767.13 (title) Family court commissioner. (1) COUNTIES OTHER THAN**

MILWAUKEE. (a) *Appointment.* In each county, except in a county having a population of 500,000 or more, the ~~circuits judges for the county, subject to the approval of the~~ chief judge of the judicial administrative district, shall, by order filed in the office of the clerk of the circuit court ~~on or before the first Monday of July of each year,~~ a p p o i n t \* ; ~~ability and standing at the bar~~ a judicial court commissioner under SCR 75.02 as the family court commissioner for the county.

(b) *Powers; civil service; oath; ~~temporary appointment;~~ assistants.* The family court commissioner, by virtue of the office and to the extent required for the performance of the duties, has the powers of a judicial court commissioner. ~~The family court commissioner is in addition to the maximum number of court commissioners permitted by s. 757.68.~~ The office of the family court commissioner, or any assistant commissioner, may be placed under a county civil service system by resolution of the county board. Before entering upon the discharge of the duties the family court commissioner shall take and file the official oath. ~~The person appointed shall continue to act until a successor is appointed and qualified, except that in the event of disability or extended absence the judges may appoint another reputable attorney to act as temporary family court commissioner.~~ The county board may provide that one or more assistant family court commissioners shall be appointed ~~by the circuit judges for the county, subject to the approval of the chief judge of the judicial administrative district. An assistant family court commissioner shall~~

~~have the same qualifications as the commissioner and shall take and file the official~~ in the same manner.

(2) MILWAUKEE COUNTY. (a) *Appointment; assistants; civil service.* In counties having a population of 500,000 or more, there is created in the classified civil service the office of family court commissioner and such additional assistant family court commissioners as the county board shall determine and authorize, who shall be appointed ~~from the membership of the bar residing in the county~~ by the chief judge of the judicial administrative district under ~~ss. 63.01 to 63.17~~ SCR 75.02.

NOTE: Subsections (1) and (2) (a) are amended by **repealing** provisions now governed by SCR Chapter 75, relating to the qualifications, appointment, supervision, training, evaluation and discipline of judicial court commissioners.

SECTION 17.767.17 of the statutes is repealed.

NOTE: The substance of the repealed statute is carried forward in **s. 757.68.** *The* repealed statute read as follows: “In counties having a population of less than 500,000, the county board shall by resolution provide an annual salary for the family court commissioner whether on a **full** or part-time basis and may furnish an office with necessary office **furnishings**, supplies and stenographic Services and may also by resolution **prescribe** other duties not in conflict with the duties as **family** court commissioner.”\*

SECTION 18. 799.05 (7) of the statutes is amended to read:

799.05 (7) FORM; COURT COMMISSIONER. Except as provided in s. 799.22(4)(b) 3, in counties ~~establishing at least one part-time or full-time court commissioner position under s. 757.68(1)(b)~~ in which a **judicial** court commissioner is authorized to assist in the administration of matters under this chapter, the summons shall be substantially in the following form:

STATE OF WISCONSIN    CIRCUIT COURT: . . . . COUNTY

---

AB.

Address

City, State Zip Code    **File** No.....

\*Plaintiff

vs.                    SUMMONS (SMALL CLAIMS)

.. C.D.

Address

City, State Zip Code

, Defendant

---

THE STATE OF WISCONSIN, to the Defendant:

You are being sued for: --

.... Eviction

.... Return of property or money

.... Confirmation, vacation, **modification** or correction of arbitration award

.... **\$**....

If you wish to dispute this matter, you must then be in Room . . . . . of the . . . . . (County)

County Courthouse, . . . . . (address), . . . . . (city), Wisconsin before . . . . . o'clock (a.m.) (p.m.), on . . . . .,

**19... If** you do not appear, a judgment may be given to the person suing you for what that person is asking.

You are encouraged to bring with **you all** papers and documents relating to this matter, but there is no need to bring witnesses at this time.

Dated at . . . . County, Wisconsin, this . . . . day of . . . . 19...

Signed: .....

E.F., Clerk of **Circuit** Court

OC

G.H., Plaintiffs Attorney

State Bar No.: . . . .

Address: ....

City, State Zip Code: . . . .

Phone No.: . . . .

**NOTE:** This bill eliminates most statutory distinctions between full-time and part-time court commissioners, and substitutes the concepts of “judicial court commissioners” (who may be employed as such either **full-time** or part-time) and “supplemental court commissioners” **who** perform limited duties under s. 753.36.

SECTION 19. 799.206 of the statutes is repealed.

**NOTE:** The substance of the repealed provision is carried forward in ss. 757.68 and 799.08. The repealed statute read as follows: “(1) In counties establishing at least one part-time or **full-time** court commissioner position under s. **757.68(1)(b)**, **all** actions and **proceedings** commenced under this chapter shall be returnable before a court commissioner appointed under s. 757.68. In any other county, a court commissioner may conduct return date proceedings if delegated such authority under s. 757.69(1)(d).”

SECTION 20.799.21 (3) **(b)** of the statutes is amended to read:

799.21 (3) **(b)** In counties ~~establishing at least one part-time~~ **full-time court commissioner position under . 757.68(1)(b)** in which **judicial** court commissioners are authorized



to **assist in the administration** of matters under this **chapter**, except in eviction **actions which shall** be governed by par. (a), **demand** for trial by jury shall be made at the time a demand for trial is **filed**. **If the** party requesting a trial does not request a jury trial, any other party may request a jury trial **by** filing the request with the court and mailing copies to all other parties within **15** days **from** the date of mailing of the demand for trial or the date on which personal notice of demand is given, whichever is applicable. If no party demands a trial by jury, the right to trial by jury is **waived forever**. The fees **prescribed** in **ss. 814.61(4)** and 814.62(3)(e) shall be paid when the **demand** for a trial by jury is filed.

**NOTE: This bill** eliminates most statutory distinctions between MI-time **and** part-time court **commissioners**, and substitutes the concepts of “judicial court commissioners” (who may be **employed** as such either full-time or part-time) and “supplemental court commissioners,” who perform limited duties under **s. 753.36**.

SECTION 21.814.68 of the statutes is **repealed** and recreated to read:

**814.68. Fees of court commissioners.** Supplemental court commissioners shall collect reasonable fees **or per** diem compensation established by rule of the circuit court under **s. 753.35**.

**NOTE: This** bill eliminates most statutory distinctions between **full-time** and part-time court commissioners, **and** substitutes the concepts of “judicial court commissioners” (who may be employed as such either MI-time or part-time) and “supplemental court commissioners,” who perform limited **duties** under **s. 753.36**. This section prescribes the fees which they are authorized to collect as compensation for those duties.

SECTION 22.938.065 of the statutes is amended to **read**:

**938.065 Juvenile court commissioners.** (1) The board of supervisors of any county may authorize the chief judge of the judicial administrative district to appoint one or more part-time or full-time judicial court commissioners to serve as juvenile court commissioners&

~~shall serve at the discretion of the chief judge. A juvenile court commissioner shall be licensed to practice law in this state and shall have been so licensed for at least 2 years immediately prior to appointment and shall have a demonstrated interest in the welfare of juveniles.~~ The chief judge may assign law clerks, bailiis and deputies to the court commissioner. The chief judge shall ~~supervise juvenile court commissioners~~, law clerks, bailiffs and deputies, except that the chief judge may delegate any of those duties.

NOTE: The amended statute requires that **juvenile** court commissioners be appointed under SCR 75.02. SCR Chapter 75 **specifies** the **qualifications**, manner of appointment, supervision and discipline of judicial court commissioners, rendering statutory 'specification of these matters surplusage.

SECTION 23.990.01 (17r) and (40m) of the statutes are created to read:

990.01 (17r) JUDICIAL COURT COMMISSIONER. "Judicial court commissioner" means an officer of the court appointed or authorized under SCR 75.02 to perform limited judicial and quasi-judicial functions under the direction and authority of the chief judge of the judicial administrative district **and** the circuit judges within the county.

(40m) SUPPLEMENTAL COURT COMMISSIONER. "Supplemental court commissioner" means a court commissioner appointed by a circuit court judge under s. 753.36, with the authority to perform the duties specified in that statute.

**NOTE:** The definitions in subs. (17r) and (40m) are based on those submitted to the Wisconsin Supreme Court in the **4/23/97 Draft** Position Paper and favored by the court as **clarifying the** distinction between judicial and supplemental court commissioners.

SECTION 24. This act takes effect January 1, 1999.

(End)

Key statutes as **affected** by this bill:

**48.065. Juvenile court commissioners.** (1) The board of supervisors of any county may authorize the chief judge of the judicial administrative district to appoint one or more judicial court commissioners under SCR 75.02 to serve part-time or full-time as juvenile court commissioners. The chief judge may assign law clerks, bailiffs and deputies to the court commissioner. The chief judge shall supervise law clerks, bailiffs and deputies, except that the chief judge may delegate any of those duties.

**753.36 Supplemental court commissioners.** (1) In each county the circuit judges shall appoint such number of supplemental court commissioners as the proper transaction of business requires except that in counties having a population of 200,000 or more each judge may appoint not more than 2 such commissioners. In all counties the appointments **shall** be subject to the approval of a majority of the circuit judges for the county. Appointments shall be **in** writing and shall be filed in the office of the clerk of the circuit court. **All** court commissioners appointed after May 16, 1978, other than official court reporters acting under s. 814.68(1)(b) performing duties or exercising powers specified for court reporters, shall be attorneys licensed to practice in this state. The appointing judge may remove, at will and without cause, any court commissioner appointed by the judge or the judge's predecessor in office. Unless he or she is so removed, the term of each court commissioner shall continue until the expiration of the term of the appointing judge. Each court commissioner shall take and file the official oath in the office of clerk of the circuit court of the county for which appointed before performing any duty of the office.

(2) Supplemental court commissioners may under their own authority:

(a) Officiate at marriage ceremonies throughout the state.

(b) Issue subpoenas and attachments or other process to compel the attendance of witnesses, administer oaths and affidavits, take depositions and testimony when authorized by law or rule or order, and certify and report the depositions and testimony.

(c) Issue the following writs returnable before a judge at a time set by the judge or the judge's clerk: habeas corpus; certiorari; ne exeat and alternative writs of mandamus.

(d) Supervise accountings subsequent to a sale of land under ch. 75.

(e) Issue subpoenas returnable before a judge on behalf of the Wisconsin department of justice for antitrust violations under s. 133.1 l(1) or violations of ss. 563.02 to 563.80 under s. 563.71(1).

(f) Investigate and dispose of unclaimed property under ss. 17 1.04 to 17 1.06.

(g) Except **as** provided in s. 767.13 (5) (c), conduct a paternity proceeding according to the procedures set out in ch. 767 whenever a court commissioner is specifically authorized to do so.

(h) Conduct supplementary hearings on the present financial status of a debtor and exercise the powers of the court under ss. 816.04, 8 16.08 and 8 16.11.

(1) Take and **certify** acknowledgments.

(3) In addition to the duties expressly set forth in **sub.(2)**, a supplemental court commissioner may perform other ministerial duties as required by a court.

(4) A supplemental court commissioner may transfer to a court any matter in which it appears that justice would be better served by such a transfer.

(5) A supplemental court commissioner **shall** refer to a court of record for appropriate action every alleged showing of contempt in the carrying out of the lawful decisions of the **commissioner**.

(6) Supplemental court commissioners ~~appointed under sub. (2)~~ shall collect the fees prescribed in s. 8 14.68 (1).

**757.68 Judicial court commissioners.** In every county organized for judicial purposes, the county board **shall** establish within the unclassified service the position of family court commissioner and such additional judicial court commissioner positions as needed for the efficient administration of judicial business within the circuit courts of the county. The position of family court commissioner and additional **court** commissioners may be M-time or part-time. In counties having a population of 500,000 or more, at least one such full-time position shall be established to assist in the administration of actions under **ch.** 799. The county board **shall** set the salary for the position. Each judicial court commissioner shall take and file the official oath in the office of the clerk of the circuit court of the county for which appointed before performing any duty of the office. Judicial court commissioners shall be qualified, appointed, supervised, trained, evaluated and subject to discipline under SCR Ch. 75.

**757.69 Powers and duties of court commissioners.** (1) The order appointing a judicial court commissioner under SCR 75.02 shall either confer all powers and duties allowed court commissioner by statute, or shall specify duties which the commissioner is authorized to perform, including but not limited to the following:

(a) Direct a case to the proper court if the defendant wishes to enter a plea after intelligent waiver of rights.

(b) In criminal matters issue summonses, arrest warrants or search warrants and conduct initial appearances of persons arrested and set bail; inform the defendant in accordance with s. 970.02(I); and refer the person to the authority for **indigency** determinations specified under s. **977.07(1)**. A judicial court commissioner may conduct the preliminary examination and arraignment and, with the consent of both the state and the defendant, may accept a guilty plea. If a court refers a disputed restitution issue under s. **973.20(13)(c)4**, the court commissioner shall conduct the hearing on the matter in accordance with s. 973.20 (13) (c) 4.

(c) Conduct initial appearances in **traffic** cases and county ordinance cases, in **traffic** regulation cases and county **ordinance** cases receive noncontested forfeiture pleas, order the revocation or suspension of operating privileges and impose monetary penalties according to a schedule adopted by a majority of the judges of the courts of record within the county, and refer applicable cases to court for enforcement for nonpayment.

(d) In small claims actions, conduct initial return appearance and conciliation conferences.

(e) Conduct noncontested probate proceedings.

(f) Issue warrants and capiases for those who do not appear as summoned.

(g) When assigned to the court assigned jurisdiction under chs. 48 and 938, a court commissioner may, under ch. 48 or 938, issue summonses and warrants, order the release or detention of children apprehended, conduct detention and shelter care hearings, conduct preliminary appearances, conduct uncontested proceedings under ss. 48.13, 938.12, 938.13 and

938.18, enter into consent decrees and exercise the powers and perform the duties specified in **par. (j)** or (m), whichever is applicable, in proceedings under s. 8 13.122 or 8 13.125 in which the respondent is a child. Contested waiver hearings under s. 938.18 and dispositional hearings under ss. 48.335 and 938.335 shall be conducted by a judge. When acting in an official capacity and assigned to the children's court center, a court commissioner shall sit at the children's court center or such other facility designated by the chief judge. Any decision by the commissioner shall be reviewed by the judge of the branch of court to which the case has been assigned, upon motion of any party. Any determination, order or ruling by the commissioner may be certified to the branch of court to which such case has been assigned upon a motion of any party for a hearing de novo.

**(h)** Hear petitions for commitment and conduct probable cause hearings under ss. 5 1.20, 5 1.45 and **55.06(11)**, conduct reviews of guardianships and protective placements and protective services under **chs. 55** and 880, advise a person alleged to be **mentally** ill of his or her rights under the United States and Wisconsin constitutions and, if the **person** claims or appears to be unable to **afford counsel**, refer the person to the authority for indigency determinations specified under s. **977.07(1)** or, if the person is a child, refer that child to the state public defender who shall appoint counsel for the child without a determination of indigency, as provided in s. **48.23(4)**.

**(i)** Conduct inquests under ch. 979.

**(j)** Hold hearings, make findings and issue temporary restraining orders under s. 8 13.122.

**(k)** Exercise the power of a juvenile court commissioner appointed under s. 48.065 or 938.065, a probate court commissioner appointed under s. 757.72 or a family court commissioner appointed under s. 767.13.

(m) Hold hearings, make findings and issue orders under s. 8 13.125.

**(2)** A judge may refer to a judicial court commissioner appointed under SCR 75.02 cases in which:

(a) The trial of an issue of fact requires the examination of an account, in which case the court commissioner **may be** directed to report upon any specific question of fact involved therein.

**(b)** The taking of an account is necessary for the information of the court before judgment or for carrying a judgment or order into effect.

(c) A question of fact other than upon the pleadings arises.

(d) Proposed findings of fact and conclusions of law are to be prepared pertaining to default mortgage and land contract foreclosures and mechanics liens.

**(3)** In addition to the powers and duties specified in the order of appointment, every judicial court commissioner has the powers specified in s. 753.36 (2).

**757.72. Office of probate court commissioner.** (1) In counties having a population of 500,000 or more, there is created in the classified civil service the office of probate court commissioner. In counties having a population of at least 100,000 but not more than 500,000, the county board may create the office of probate court commissioner which may be in the classified civil service.

(2) Judges assigned probate jurisdiction may assign to the probate court commissioners any matters over which the judges have jurisdiction, and the probate court commissioners may determine such matters and may sign any order or certificate required in such determination.

(3) Probate court commissioners shall receive such salary and be **furnished** with quarters, **necessary office** furnishings and **supplies** as determined by the county board.

(4) Probate court commissioners shall be judicial court commissioners qualified, appointed, **evaluated**, supervised and subject to discipline under SCR chapter 75.

(5) The register in probate of a county shall have the duties and powers of a probate **court** commissioner and shall act in that capacity when designated to do so by a judge assigned probate jurisdiction.

(6) Before entering upon the performance of their duties, probate court commissioners shall take and file the official oath.

(7) Probate **court commissioners shall** by virtue of their respective positions, and to the extent **required for the performance of their duties, each have the powers of a court commissioner.**

(8) The probate court commissioners may administer oaths, take depositions and **testimony, and** certify and report **the depositions and testimony, take and certify** acknowledgments, allow accounts and fix the amount and approve the **sufficiency of bonds.**

**767.13 Family court commissioner. (1) COUNTIES OTHER THAN MILWAUKEE.**

(a) **Appointment.** In each county, except in a county having a population of 500,000 or more, the chief judge of the judicial administrative district appoint a judicial court commissioner under SCR 75.02 as the family court commissioner for the county.

(b) **Powers; civil service; oath; assistants.** The family court commissioner, by virtue of the office and to the extent required for the performance of the duties, has the powers of a judicial court commissioner. The office of the family court commissioner, or any assistant commissioner, may be placed under a county civil **service** system by resolution of the county **board.** Before entering upon the discharge of the duties the family court commissioner shall take and file the official oath. The county board may provide that one or more assistant family court **commissioners** shall be appointed in the same manner.

(2) **MILWAUKEE COUNTY. (a) Appointment; assistants; civil service.** In counties having a population of 500,000 or more, there is created in the classified civil service the office of family court commissioner and such additional assistant family court commissioners as the county board shall determine and authorize, who shall be appointed by the chief judge of the judicial administrative district under SCR 75.02.

(b) **Oath; powers; salary; unavailability; duties.** Before entering upon the performance of their duties, the family court commissioner and assistant **family** court commissioners shall take and file the **official** oath. The family court commissioner **and** assistant family court **commissioners** shall, by virtue of their respective positions and to the extent required for the performance of their duties, each have the powers of a judicial court commissioner. They shall receive such salary as may be **fixed** by the county board, shall perform their duties under the direction of **the** chief judge of the judicial administrative district or a designee and shall be **furnished** with quarters and **necessary** office **furnishings** and supplies. The county board shall provide them their **necessary** stenographic and investigational service. When the family court commissioner is unavailable, any assistant family court commissioner shall perform all the duties and have all the powers of the family court **commissioner** as directed **by** the commissioner or by

the chief judge of the judicial administrative district or other judge as the chief judge may designate. In addition to the duties of the family court commissioner under this chapter, the family court commissioner shall perform other duties as the chief judge of the judicial administrative district, or other judge as the chief judge may designate, directs.

(3) **MENOMINEE COUNTY.** Menominee county shall be attached to Shawano county to the extent of office and **functions** of the family court commissioner, and the duly appointed family court commissioner of Shawano county shall serve as family court commissioner for **Menominee** county with **all** the duties, rights and power of the family court commissioner therein; **and** no family court commissioner shall be appointed in Menominee county, the county not **being** organized for that purpose.

(4) **RETIRED JUDGES.** In any county one or more retired or former judges or retired family court commissioners may be appointed as temporary or temporary assistant family court commissioners **by** a majority of the judges of the county subject to the approval of the chief judge of **the** judicial administrative district. The temporary or temporary assistant family court commissioners shall be compensated by the county.

(5) **JUDGMENTS TN CERTAIN ACTIONS AFFECTING THE FAMILY.** (a) **Divorce.** On authority delegated by a judge, which may be by a standard order, and with the approval of the chief judge of the judicial administrative district, a family court commissioner may preside at any hearing held to determine whether a judgment of divorce shall be granted, if both parties state that the **marriage** is irretrievably broken and that all material issues, including but not limited to division of property or estate, legal custody, physical placement, child support, spousal maintenance and family support, are resolved or if one party does not participate in the action for divorce. The family court commissioner may grant and enter judgment in any action over which he or she presides under this paragraph unless the judgment modifies an agreement between the parties on material issues. If the family court commissioner does not approve an agreement between the parties on material issues, the **action** shall be certified to the court for trial.

(b) **Enforcement or revision; maintenance, custody, physical placement and visitation.** On authority delegated by a judge, which may be by a standard order, a family court **commissioner** may conduct hearings and enter judgments in actions for enforcement of, or **revision** of judgment for, maintenance, custody, physical placement or visitation.

(c) **Establishment, enforcement or revision; paternity and support.** Except when otherwise ordered by a judge, a family court commissioner may conduct hearings and enter orders and judgments in actions to establish paternity, in actions to establish or enforce a child support or a family support obligation and in actions to revise orders or judgments for child support **or** family support.

(6) **REVIEW OF THE DECISIONS OF THE FAMILY COURT COMMISSIONER.** Upon the motion of any party any decision of the family court commissioner shall be reviewed by the judge of the branch of the court to which the case has been assigned. Upon the motion of any party any such review shall include a new hearing on the subject of the decision, order **or ruling.**

(7) **COOPERATION.** Each family court commissioner shall cooperate with the county **and** the department to ensure that all dependent children receive reasonable and necessary child support.

**799.08. Court commissioners; authority.** A judicial court commissioner authorized to assist in the administration of matters under this chapter shall conduct the hearings and proceedings as prescribed by this chapter and may:

- (1) Grant and enter default judgments and approve stipulations.
- (2) Conduct conferences and hearing with the parties or their attorneys or both on the return dates and adjourned dates, if any.
- (3) Issue decisions in matters that come before the commissioner. The decisions **shall** become judgments under s. 799.207 (2).

**814.68. Fees of court commissioners.** Supplemental court commissioners shall collect reasonable fees or per diem compensation established by circuit court rule under s. 753.35.

**938.065 Juvenile court commissioners.** (1) The board of supervisors of any county may authorize the chief judge of the judicial administrative district to appoint one or more part-time or MI-time judicial court commissioners to serve as juvenile court commissioners. The chief judge may assign law clerks, bailiffs and deputies to the court commissioner. The chief judge shall supervise law clerks, bailiffs and deputies, except that the chief judge may delegate any of those duties.

**990.01 Construction of laws; words and phrases. (17r) JUDICIAL COURT COMMISSIONER.** “Judicial court commissioner” means a legally trained officer of the court appointed under SCR 75.02 to perform limited judicial and quasi-judicial **functions** under the **direction** and authority of the chief judge of the judicial administrative district and the circuit judges within the county.

(40m) **SUPPLEMENTAL COURT COMMISSIONER.** “Supplemental court **commissioner**” means a court commissioner appointed by a circuit court judge under s. 753.36, with the authority to perform the duties specified in that statute.





D - Note

Jig

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

Due FRIDAY 4/17

gen cat

1 AN ACT . . . relating to: powers, responsibilities and appointment of judicial court  
2 commissioners and supplemental court commissioners.

**Analysis by the Legislative Reference Bureau**

This is a preliminary draft. An analysis will be provided in a later version.

**The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:**

\*\*\*NOTE: I did not change s. 13.24 (1), thus allowing any court commissioner, including supplemental court commissioners and municipal court commissioners to take depositions of witnesses in contested election cases. OK?

3 **SECTION 1.** 17.16 (1) of the statutes, as affected by 5996 Supreme Court Order  
4 96-08, is repealed and recreated to read:

5 17.16 (1) Removals from office at pleasure shall be made by order, a copy of  
6 which shall be filed as provided by sub. (8), except that a copy of the order of removal  
7 of a judicial court commissioner shall be filed in the office of the clerk of the circuit  
8 court.

1 SECTION 2. 48.065 (1) of the statutes is amended to read:

2 48.065 (1) The board of supervisors of any county may authorize the chief judge  
3 of the judicial administrative district to appoint one or more judicial court  
4 commissioners to serve as <sup>✓</sup> part-time or full-time juvenile court commissioners <sup>plan</sup> ~~who~~  
5 ~~shall serve at the discretion of the chief judge. A juvenile court commissioner shall~~  
6 ~~be licensed to practice law in this state and shall have been so licensed for at least~~  
7 ~~2 years immediately prior to appointment and shall have a demonstrated interest in~~  
8 ~~the welfare of children.~~ The chief judge may assign law clerks, bailiffs and deputies  
9 to the court commissioner. The chief judge shall supervise <sup>↓</sup> ~~juvenile court~~  
10 ~~commissioners~~, law clerks, bailiffs and deputies, except that the chief judge may  
11 delegate any of those duties.

History: History: 1977 c. 354,449; 1979 c. 300, 331, 355,359; 1981 c. 314.1987 a. 151; 1989 a 56.1991 a 39; 1993 a. 318,377; 1995 a. 77, 275.

12 SECTION 3. 48.30 (9) of the statutes ~~as affected by 1997 Wisconsin Act 31~~ is  
13 amended to read:

14 48.30 (9) If a juvenile <sup>✓</sup> court commissioner conducts the plea hearing and  
15 accepts an admission of the alleged facts in a petition brought under s. 48.13, the  
16 judge shall review the admission at the beginning of the dispositional hearing by  
17 addressing the parties and making the inquiries set forth in sub. (8).

History: History: 1977 c. 354, 355, 447; 1979 c. 300, 331, 355, 359; 1985 a. 321,332; 1987 a 151; 1987 a 403 s. 256; Sup. Ct. Order, 158 W (2d) xvii (1990); 1993 a. 163, 474,481; 1995 a. 77, 225, 404, 417; 1997 a. 3.

\*\*\*NOTE: I added "juvenile" to this section of the statutes to be consistent with the rest of this chapter.

18 SECTION 4. 51.10 (4m) (d) of the statutes is amended to read:

19 51.10 (4m) (d) If a patient admitted under par. (a) 1. has not signed a voluntary  
20 admission application within 7 days after admission, the patient, the guardian ad  
21 litem and the physician who signed the admission request shall appear before the  
22 judge or judicial <sup>✓</sup> court commissioner ~~of the court~~ <sup>✓</sup> assigned to exercise probate

1 jurisdiction for the county in which the facility is located to determine whether the  
2 patient shall remain in the facility as a voluntary patient. If the judge or judicial  
3 court commissioner determines that the patient desires to leave the facility, the  
4 facility shall discharge the patient. If the facility has reason to believe the patient  
5 is eligible for commitment under s. 51.20, the facility may initiate procedures for  
6 involuntary commitment.

History: History: 1975 c. 430; 1977 c. 354, 428, 447; 1979 c. 336; 1985 a. 29 s. 3200 (56); 1985 a. 139, 176,332; 1987 a. 366; 1995 a. 292.

7

**SECTION 5.** 51.20 (1) (c) of the statutes ~~as affected by 1997 Wisconsin Act 35~~

8 is amended to read:

9 51.20 (1) (c) The petition shall contain the names and mailing addresses of the  
10 petitioners and their relation to the subject individual, and shall also contain the  
11 names and mailing addresses of the individual's spouse, adult children, parents or  
12 guardian, custodian, brothers, sisters, person in the place of a parent and person  
13 with whom the individual resides or lives. If this information is unknown to the  
14 petitioners or inapplicable, the petition shall so state. The petition may be filed in  
15 the court assigned to exercise probate jurisdiction for the county where the subject  
16 individual is present or the county of the individual's legal residence. If the judge of  
17 the court or a judicial court commissioner who handles probate matters is not  
18 available, the petition may be filed and the hearing under sub. (7) may be held before  
19 a judge or judicial court commissioner of any circuit court for the county. e  
20 purposes of this chapter, duties to be performed by a court shall be carried out by the  
21 judge of the court or a judicial court commissioner ~~of the court who is an attorney and~~  
22 ~~is designated by the judge to so act, in all matters prior to a final hearing under this~~  
23 ~~section.~~ The petition shall contain a clear and concise statement of the facts which  
24 constitute probable cause to believe the allegations of the petition. The petition shall

1 be sworn to be true. If a petitioner is not a petitioner having personal knowledge as  
 2 provided in par. (b), the petition shall contain a statement providing the basis for his  
 3 or her belief.

History: History: 1975 c. 430; 1977 c. 26.29; 1977 c. 187 ss. 42, 43, 134, 135; 1977 c. 428 ss. 29 to 65, 115; 1977 c. 447.449; Sup. Ct. Order, 83 W (2d) xiii; 1979 c. 32, 89; Sup. Ct. Order, eff. 1-1-80; 1979 c. 110 s. 60 (1); 1979 c. 175 s. 53; 1979 c. 300, 336, 356; 1981 c. 20.367; 1981 c. 390 s. 252; 1983 a. 27.219; 1983 a. 474 ss. 2 to 9m, 14; 1985 a 29 ss. 1067 to 1071, 3200 (56), 3202 (56), 1985 a. 139, 176, 321, 332; 1987 a. 27; Sup. Ct. Order, 141 W (2d) xiii (1987); 1987 a. 366, 394, 403; 1989 a. 31, 334, 1993 a. 98, 196, 227, 316, 451, 474; 1995 a. 77, 201, 268, 292, 440; Sup. Ct. Order No. 96-08, filed 1-16-97, eff. 7-1-97; 1997 a. 35.

4 **SECTION 6. 51.45 (12) (b) (intro.)** of the statutes is amended to read:

5 51.45 (12) (b) (intro.) The physician, spouse, guardian or a relative of the person  
 6 sought to be committed, or any other responsible person, may petition a judicial court  
 7 commissioner or the circuit court of the county in which the person sought to be  
 8 committed resides or is present for commitment under this subsection. The petition  
 9 shall:

History: History: 1973 c. 198; 1975 c. 200.428; 1975 c. 430 s. 80; 1977 c. 29; 1977 c. 187 ss. 44, 134, 135; 1977 c. 203 s. 106; 1977 c. 428; 1977 c. 449 s. 497; Sup. Ct. Order, 83 W (2d) xiii (1987); 1979 c. 32 s. 92 (11); Sup. Ct. Order, eff. 1-1-80; 1979 c. 221 ss. 417, 2200 (20); 1979 c. 300, 331, 356; 1981 c. 20; 1981 c. 79 s. 17; 1981 c. 289, 314; 1983 a. 27 ss. 1116 to 1121.2202 (20); 1985 a. 29 s. 3202 (56); 1985 a. 139; 1985 a. 176 ss. 533 to 556.615; 1985 a. 265; 1985 a. 332 s. 251 (1); 1987 a. 339.366; 1989 a. 31, 336, 359; 1991 a. 39; 1993 a. 16, 27, 213, 451, 490; 1995 a. 27 ss. 3268, 3269, 9145 (1); 1995 a. 77.225; 1997 a. 27, 35.

10 **SECTION 7. 51.45 (12) (c) (intro.)** of the statutes is amended to read:

11 51.45 (12) (c) (intro.) Upon receipt of a petition under par. (b), the judicial court  
 12 commissioner or court shall:

History: History: 1973 c. 198; 1975 c. 200.428; 1975 c. 430 s. 80; 1977 c. 29; 1977 c. 187 ss. 44, 134, 135; 1977 c. 203 s. 106; 1977 c. 428; 1977 c. 449 s. 497; Sup. Ct. Order, 83 W (2d) xiii (1987); 1979 c. 32 s. 92 (11); Sup. Ct. Order, eff. 1-1-80; 1979 c. 221 ss. 417.2200 (20); 1979 c. 300, 331, 356; 1981 c. 20; 1981 c. 79 s. 17; 1981 c. 289, 314; 1983 a. 27 ss. 1116 to 1121.2202 (20); 1985 a. 29 s. 3202 (56); 1985 a. 139; 1985 a. 176 ss. 533 to 556.615; 1985 a. 265; 1985 a. 332 s. 251 (1); 1987 a. 339.366; 1989 a. 31, 336, 359; 1991 a. 39; 1993 a. 16, 27, 213, 451, 490; 1995 a. 27 ss. 3268, 3269, 9145 (1); 1995 a. 77.225; 1997 a. 27.35.

13 **SECTION 8. 51.45 (12) (c) 1.** of the statutes is amended to read:

14 51.45 (12) (c) 1. Determine whether the petition and supporting affidavits  
 15 sustain the grounds for commitment and dismiss the petition if the grounds for  
 16 commitment are not sustained thereby. If the grounds for commitment are sustained  
 17 by the petition and supporting affidavits, the court or judicial court commissioner  
 18 shall issue an order temporarily committing the person to the custody of the county  
 19 department pending the outcome of the preliminary hearing under sub. (13) (d).

History: History: 1973 c. 198; 1975 c. 200.428; 1975 c. 430 s. 80; 1977 c. 29; 1977 c. 187 ss. 44, 134, 135; 1977 c. 203 s. 106; 1977 c. 428; 1977 c. 449 s. 497; Sup. Ct. Order, 83 W (2d) xiii (1987); 1979 c. 32 s. 92 (11); Sup. Ct. Order, eff. 1-1-80; 1979 c. 221 ss. 417.2200 (20); 1979 c. 300, 331, 356; 1981 c. 20; 1981 c. 79 s. 17; 1981 c. 289, 314; 1983 a. 27 ss. 1116 to 1121.2202 (20); 1985 a. 29 s. 3202 (56); 1985 a. 139; 1985 a. 176 ss. 533 to 556.615; 1985 a. 265; 1985 a. 332 s. 251 (1); 1987 a. 339, 366, 1989 a. 31, 336, 359; 1991 a. 39; 1993 a. 16, 27, 213, 451, 490; 1995 a. 27 ss. 3268, 3269, 9145 (1); 1995 a. 77, 225; 1997 a. 27, 35.

20 **SECTION 9. 51.45 (13) (dm)** of the statutes is amended to read:

1           51.45 (13) (dm) For the purposes of this section, duties to be performed by a  
 2 court shall be carried out by the judge of such court or a judicial court commissioner  
 3 ~~of such court who is an attorney and is designated by the judge to so act, in all matters~~  
 4 ~~prior to a final hearing under this subsection.~~

History: History: 1973 c. 198; 1975 c. 200,428; 1975 c. 430 s. 80; 1977 c. 29; 1977 c. 187 ss 44, 134,135; 1977 c. 203 s. 106; 1977 c. 428, 1977 c. 449 s. 497; Sup Ct. Order, 83 W (2d) xiii (1987); 1979 c. 32 s. 92 (11); Sup. Ct. Order, eff. 1-1-80; 1979 e. 221 ss. 417, 2200 (20); 1979 c. 300, 331, 356; 1981 c. 20; 1981 c. 79s. 17; 1981 c. 289, 314; 1983 a. 27 ss. 1116 to 1121, 2202 (20); 1985 a. 29 s. 3202 (56); 1985 a. 139; 1985 a 176 ss. 533 to 556,615; 1985 a. 265; 1985 a. 332 s. 251 (1); 1987 a. 339,366; 1989 a. 31, 336, 359, 1991 a. 39; 1993 a. 16, 27, 213, 451, 490, 1995 a. 27 ss. 3268, 3269, 9145 (1); 1995 a. 77,225; 1997 a 27, 35.

5           **SECTION 10.** 59.37 of the statutes is amended to read:

6           **59.37 Service when no coroner.** Whenever there is a vacancy in the office  
 7 of coroner, or when the coroner is absent from the county, sick or unable to perform  
 8 the duties of that office, or for any reason, except the nonpayment of legal fees,  
 9 refuses to serve and execute legal process against the sheriff in any action  
 10 commenced in any court of record within the county for which the coroner was or  
 11 should have been elected, any judge of a court of record or judicial court commissioner  
 12 of the county may, on proof of the vacancy, sickness, absence or refusal to serve and  
 13 execute such process, by an order to be endorsed on such process and addressed to  
 14 him or her, empower any citizen of the county in which such process is to be served  
 15 and executed to serve and execute the same; and that order shall be sufficient  
 16 authority to the person therein named to serve and execute such process with like  
 17 powers, liabilities and fees as the coroner.

History: History: 1977 c. 449; 1995 a. 201 s. 305; Stats. 1995 s. 59.37.

18           **SECTION 11. 59.64** (1) (c) of the statutes is amended to read:

19           59.64 **(1) (c) Of judicial officers.** ~~Court~~ Judicial and sunnlemental court  
 20 commissioners shall, on or before the first Monday of November in each year, forward  
 21 to the clerk of their respective counties a correct statement of all actions or  
 22 proceedings had before them, during the immediately preceding year, in which the  
 23 county became liable for costs, giving the names of the parties in each action or

1 proceeding, the nature and result of the same, the amount of costs in detail in each  
 2 case and what items, if any, have been paid and the amount thereof. The clerk shall  
 3 file such statements in his or her office. Any such officer who neglects to make and  
 4 return such statements within the time prescribed in this paragraph shall not  
 5 receive any compensation from the county for any service rendered by him or her in  
 6 any criminal case or proceeding during the year next preceding the time when the  
 7 statement is required to be made and returned.

History: History: 1995 a. 158 s. 9; 1995 a. 201 ss. 397, 427, 428, 430, 433; 1995 a. 225 ss. 165 to 168; 1997 a. 27, 35; s. 13.93 (2) (c).

8 **SECTION 12.** 59.64 (1) (d) (intro.) of the statutes is amended to read:

9 59.64 (1) (d) (intro.) ***Of court officers; certification; audit by district attorney;***  
 10 ***waiver.*** Fees of officers, in any action or proceeding before a judicial or sunnlemental  
 11 court commissioner, shall be certified to and allowed by the board in the following  
 12 manner:

History: History: 1995 a. 158 s. 9; 1995 a. 201 ss. 397, 427, 428, 430, 433; 1995 a. 225 ss. 165 to 168; 1997 a. 27, 35; s. 13.93 (2) (c).

13 **SECTION 13.** 59.64 (1) (e) of the statutes is amended to read:

14 **59.64 (1) (e) Fees for statements and certificates.** Every judicial and  
 15 sunnlemental court commissioner shall receive from the treasurer \$1 per page for  
 16 making statements and returns required by par. (c) and \$1 for making each  
 17 certificate required by par. (d). All such statements and certificates shall be  
 18 transmitted to the clerk by certified mail and for transmitting the statements and  
 19 certificates the court commissioner shall receive \$1.

History: History: 1995 a. 158 s. 9; 1995 a. 201 ss. 397, 427, 428, 430, 433; 1995 a. 225 ss. 165 to 168; 1997 a. 27.35; s. 13.93 (2) (c).

20 **SECTION 14.** 59.64 (1) (f) of the statutes is amended to read:

21 **"59.64 (1) (f) Court commissioners.** The board at any session thereof may as  
 22 provided in par. (d) 2. examine and allow any statement, account or claim of any

1 judicial or supplemental court commissioner which is on file with the clerk before the  
2 opening of the session of the board.

History: History: 1995 a. 158 s. 9; 1995 a. 201 ss. 397, 427, 428, 430, 433; 1995 a. 225 ss. 165 to 168; 1997 a. 27, 35; s. 13.93 (2) (c).

3 SECTION 15. 59.64 (1) (g) 4. of the statutes is amended to read:

4 59.64 (1) (g) 4. Any judge or judicial or supplemental court commissioner, juror,  
5 witness, interpreter, attorney, guardian ad litem or recipient of transcript fees who  
6 makes, signs or endorses any such certificate or order which is untrue in respect to  
7 anything material, which he or she knows to be false, or which he or she does not have  
8 good reason to believe is true, shall be punished as provided in s. 946.12.

History: History: 1995 a. 158 s. 9; 1995 a. 201 ss. 397, 427, 428, 430, 433, 1995 a. 225 ss. 165 to 168; 1997 a. 27.35; s. 13.93 (2) (c).

9 SECTION 16. 59.79 (5) of the statutes is amended to read:

10 59.79 (5) FEE FOR CERTAIN MARRIAGE CEREMONIES. Enact an ordinance imposing  
11 a fee to be paid in advance to the clerk for each marriage ceremony performed by a  
12 judge or a judicial or supplemental court commissioner specified in s. 765.16 (5) in  
13 the courthouse, safety building or children's court center during hours when any  
14 office in those public buildings is open for the transaction of business. The amount  
15 of the fee shall be determined by the board.

History: History: 1995 a. 201 ss. 137, 164, 166, 168, 170, 184, 189, 194 to 196, 223, 225, 235, 236, 431, 454.

16 SECTION 17. 63.03 (2) (z) of the statutes is amended to read:

17 63.03 (2) (z) ~~Full-time Judicial~~ court commissioners under s. 757.68 (1). Any  
18 person qualified and acting as a judicial court commissioner on August 1, 1978, shall  
19 be considered a judicial court commissioner and shall continue in the classified  
20 county civil service but any person appointed as a <sup>jucca</sup> court commissioner after August  
21 1, 1978, shall be in the unclassified (exempt) civil service.

History: History: 1971 c. 154.1973 c. 12, 63, 262; 1977 c. 27, 323, 433, 447; 1981 c. 329 s. 31; 1985 a 29 s. 3202 (56); 1985 a. 176; 1989 a. 31, 260, 268; 1991 a. 274; 1993 a. 16; 1995 a. 201.

\*\*\*NOTE: The last sentence is based on a sentence currently in section 757.68 (1) of the statutes. Is this last sentence still necessary?

1           **SECTION 18.** 75.43 of the statutes is amended to read:

2           **75.43 Election to receive deposit; costs.** The county may, at any time  
3 within 20 days after receiving an answer showing that a deposit has been made by  
4 any defendant or defendants as provided in s. 75.42, give notice to such defendant  
5 or defendants that it elects to receive such deposit and that it will, at a time specified  
6 in such notice, apply to the clerk of the circuit court, circuit judge or a judicial court  
7 commissioner to adjust the costs and disbursements which said defendant or  
8 defendants ought to pay, and that upon the payment of the costs and disbursements  
9 so adjudged the county will release to such defendant or defendants all right, title  
10 and claim which it has to the parcel or parcels of land on account of which such  
11 deposit is made by virtue of any deed made for the nonpayment of taxes; and unless  
12 such costs are paid within 20 days after the same shall have been so adjusted the  
13 clerk of the court shall, upon presentation of an affidavit showing the nonpayment  
14 thereof, enter judgment therefor in favor of the county and against the defendant,  
15 which shall be enforced as other money judgments.

History: History: 1987 a 378.

16           **SECTION 19.** 101.02 (5) (c) of the statutes is amended to read:

17           101.02 (5) (c) In the discharge of his or her duties such agent shall have every  
18 power of an inquisitorial nature granted in this subchapter to the department, the  
19 same powers as a supplemental court commissioner with regard to the taking of  
20 depositions and all powers granted by law to a supplemental court commissioner  
21 relative to depositions.

History: History: 1971 c. 185 ss. 1 to 5, 7; 1971 c. 228 ss. 16, 42; Stats. 1971 s. 101.02; 1975 c. 39, 94; 1977 c. 29; 1981 c. 360, 1983 a. 410; 1985 a. 182 s 57; 1987 a. 343; 1989 a. 31, 56, 139; 1991 a. 39,269; 1993 a. 27, 184, 252, 414, 492; 1995 a. 27 ss. 3631 to 3649r, 9126 (19); 1995 a. 215.

22           **SECTION 20.** 103.005 (5) (c) of the statutes is amended to read:



1           103.005 (5) (c) In the discharge of his or her duties such agent shall have every  
2 power of an inquisitorial nature granted in chs. 103 to 106 to the department, the  
3 same powers as a supplemental court commissioner with regard to the taking of  
4 depositions and all powers granted by law to a supplemental court commissioner  
5 relative to depositions.

History: History: 1995 a. 27 ss. 2030, 3649r, 3747, 9130 (4); 1995 a. 215, 404; 1997 a. 3.

6           **SECTION 21.** 133.10 (1) of the statutes is amended to read:

7           133.10 (1) The examination of any party, or if a corporation or limited liability  
8 company be a party, of the president, secretary, other principal officer or the general  
9 managing agent thereof, or of the person who was such president, secretary, officer  
10 or agent at the time of the occurrence of the facts made the subject of the  
11 examination, or of any person acting for another or for a corporation, limited liability  
12 company or partnership, other than as a witness on a trial, may be taken by  
13 deposition at the instance of the department of justice in any such action or  
14 proceeding at any time between the commencement thereof and final judgment.  
15 Such deposition shall be taken within the state before a judge at chambers or a  
16 judicial or supplemental court commissioner on previous notice to such party and  
17 any other adverse party or the attorney thereof of at least 5 days, and may be taken  
18 without the state.

History: History: 1979 c. 209; 1993 a. 112.

19           **SECTION 22.** 133.11 (1) of the statutes is amended to read:

20           133.11 (1) Whenever the attorney general files with any judicial or  
21 supplemental court commissioner a statement that the attorney general has reason  
22 to believe and does believe that a violation of this chapter has occurred, the  
23 commissioner shall issue a subpoena or a subpoena requiring the production of  
24 materials as requested by the department of justice. Mileage or witness fees are not

1 required to be paid in advance but claims for such mileage and fees duly verified and  
2 approved by the department of justice shall be audited and paid out of the state  
3 treasury and charged to the appropriation provided by s. 20.455 (1) (d), and shall be  
4 at the same rates as witnesses in the circuit court,

History: History: 1979 c. 209; 1981 c. 314; 1981 c. 317 s. 2202.

5 **SECTION 23.** 171.04 (1) of the statutes is amended to read:

6 171.04 **(1)** If any property delivered to any forwarding merchant, wharfinger  
7 or warehouse keeper, for carriage or storage, is in a state of decay or manifestly liable  
8 to immediate damage and decay, the person in whose custody the property is, the  
9 person's agent or attorney, may make an affidavit of this fact, and present the  
10 affidavit to a circuit judge or judicial court commissioner for the county in which the  
11 property is located, and the circuit judge or judicial court commissioner shall  
12 immediately make an order requiring the sheriff or any constable of the county to  
13 immediately inspect the property, and directing him or her, if it is found to be in a  
14 state of decay or manifestly liable to immediate damage or decay, to summarily sell  
15 the property without notice.

History: History: 1977 c. 449; 1993 a 482.

16 **SECTION 24.** 171.05 of the statutes is amended to read:

17 **171.05 Perishable property, held otherwise, how disposed of.** If any  
18 property is perishable or subject to decay by keeping, the person in whose custody  
19 the property is, the person's agent or attorney, may make an affidavit of this fact and  
20 present the affidavit to a circuit judge or judicial court commissioner for the county  
21 in which the property is located, and the judge or judicial court commissioner shall  
22 immediately make an order requiring the sheriff or any constable of the county to  
23 immediately inspect the property, and if it is found to be perishable or subject to  
24 decay by keeping, to make and return an affidavit of this fact. Upon the return of

1 this affidavit, the judge or commissioner making the order shall immediately issue  
2 an order requiring the sheriff or constable to sell the property at public auction,  
3 giving notice of the time and place of the sale by publication of a class 1 notice, under  
4 ch. 985, and serving upon the consignor, the consignee and the custodian of the  
5 property, if they are known, a copy of the notice by mail. The sheriff or constable  
6 shall, at the time and place fixed by the notice, unless the property has been  
7 otherwise lawfully disposed of, sell the property at public auction, and shall make  
8 full return of his or her execution of the order, and return the same with an inventory  
9 of the property and the proceeds of the sale, after deducting his or her fees, to the  
10 judge or commissioner making the order. From the proceeds of the sale, the judge  
11 or commissioner shall pay all legal charges that have been incurred in relation to the  
12 property, or a ratable proportion of each charge, if the proceeds of the sale are not  
13 sufficient to pay all the charges; and the balance, if any, the judge or court  
14 commissioner shall immediately pay over to the treasurer of the county, with a copy  
15 of all the proceedings in the matter. The county treasurer shall file the copy in his  
16 or her office. The person in whose custody the property is when the proceedings for  
17 the sale were commenced, shall immediately notify the consignor and consignee of  
18 the sale, in writing which shall be served by leaving a copy with the consignor and  
19 consignee personally or by mail.

History: History: 1977 c. 449.

20 SECTION 25. 171.06 of the statutes is amended to read:

21 **171.06 Unclaimed property, how disposed of.** When any property is not  
22 perishable or subject to decay and is not claimed and taken away within one year  
23 after it was received, it may be sold as follows: The person in whose custody the  
24 property is, or the person's agent or attorney, may make an affidavit of the facts and

1 present the same to a judge or judicial court commissioner of the county in which the  
2 property is located and such judge or judicial court commissioner shall immediately  
3 issue an order requiring the sheriff or any constable of the county to sell the property  
4 at public auction, giving 60 days' notice of the time and place of the sale to the  
5 consignor, the consignee and the custodian of the property This notice shall be in  
6 writing and served personally or by mail upon the persons whose names and  
7 residences are known. If the name or residence of any of the persons is unknown and  
8 cannot be ascertained with reasonable diligence, the sheriff or constable shall make  
9 an affidavit of this fact and shall publish a class 3 notice, under ch. 985, in the county  
10 At the time and place of the sale the sheriff or constable shall sell the property at  
11 public auction and shall make a full return of the sheriff's or constable's proceedings  
12 under the order to the judge or commissioner issuing the order, together with proof  
13 of service or publication of the notice of the sale, and an inventory of the property sold  
14 and the proceeds of the sale after deducting the sheriff's or constable's fees. From  
15 the proceeds of the sale the judge or commissioner shall pay all legal charges that  
16 have been incurred in relation to the property, including the charges of the person  
17 in whose custody the property was when the proceedings were begun, or a ratable  
18 proportion of each charge if the proceeds of the sale are not sufficient to pay all the  
19 charges; and the balance, if any, the judge or commissioner shall immediately pay  
20 over to the treasurer of his or her county, with a copy of all proceedings in the matter.  
21 The county treasurer shall file the copy in his or her office. The person in whose  
22 custody the property is when any proceeding for the sale is commenced, shall  
23 immediately notify the consignor and consignee of the sale, in writing, and served  
24 by leaving a copy thereof with the consignor and consignee, personally or by mail.

1 SECTION 26. 196.24 (2) of the statutes is amended to read:

2 196.24 (2) In the discharge of his or her duties, an agent appointed under sub.  
3 (1) shall have any inquisitional power granted to the commission and the power of  
4 a supplemental court commissioner to take depositions under s. 757.69 (3) (b);

753.36(2)  
PANA  
plain

History: History: 1975 c 414 s. 28; 1983 a. 53; 1985 a 182 s. 57.

5 SECTION 27. 753.36 (title) of the statutes is created to read:

6 753.36 (title) **Supplemental court commissioners.**

7 SECTION 28. 757.23 of the statutes, as affected by 1997 Wisconsin Act 27, is  
8 amended to read:

9 **757.23 Court commissioner, when disqualified.** A ~~municipal court~~  
10 ~~commissioner, a~~ court commissioner, or any judge acting as a court commissioner,  
11 shall not act or take part in the decision of, or make any order in any matter or  
12 proceeding in which he or she is a party, or in which his or her rights would be in any  
13 manner affected by his or her decision or order thereon, or in which he or she is  
14 interested, or in which his or her law partner, or any person connected with him or  
15 her as employer, employe or clerk, or in the law business in any manner, shall be  
16 interested or appear as a party, agent, attorney or counsel. Any  
17 ~~municipal court commissioner,~~ court commissioner or judge, acting as a court  
18 commissioner, violating this section shall forfeit \$25 for each violation, and shall also  
19 be subject to removal from office.

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History: History: 1977 c. 187 s. 96; Stats. 1977 s. 751.23; 1997 a. 27.

20 SECTION 29. 757.30 (2) of the statutes, as, affected by 1996 Supreme Court  
21 Order 96-08, is repealed and recreated to read:

22 757.30 (2) Every person who appears as agent, representative or attorney, for  
23 or on behalf of any other person, or any firm, partnership, association or corporation  
24 in any action or proceeding in or before any court of record, judicial court

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1 commissioner, or judicial tribunal of the United States, or of any state, or who  
 2 otherwise, in or out of court, for compensation or pecuniary reward gives  
 3 professional legal advice not incidental to his or her usual or ordinary business, or  
 4 renders any legal service for any other person, or any firm, partnership, association  
 5 or corporation, shall be deemed to be practicing law within the meaning of this  
 6 section.

History: History: 1977 c. 26; 1977 c. 187 s. 96; Stats. 1977 s. 757.30; 1979 c. 98; 1991 a. 32, 39; 1993 a. 490.

7 SECTION 30. 757.68 (title) of the statutes is amended to read:

8 757.68 (title) ~~Court~~ Judicial court commissioners.

History: History: 1973 c. 278; 1975 c. 39; 1975 c. 94 s. 3; 1975 c. 199; 1975 c. 430 s. 80; 1977 c. 187 s. 96; 1977 c. 323 ss 7, 11; 1977 c. 345; 1977 c. 418 ss 751,752; 1977 c. 447 ss. 192 to 195; 1977 c. 449; Stats. 1977 s. 757.68; 1979 c. 32 s. 92 (16); 1981 c. 317 ss. 85pg, 2202; 1987 a. 151,208.

9 SECTION 31. 757.68 (1) of the statutes is repealed and recreated to read:

10 757.68 (1) In every county organized for judicial purposes, the county board  
 11 shall establish within the unclassified service the position of family court  
 12 commissioner and such additional judicial court commissioner positions as needed  
 13 for the efficient administration of judicial business within the circuit courts of the  
 14 county. The positions of family court commissioner and judicial court commissioners  
 15 may be full-time or part-time. Each judicial court commissioner shall take and file  
 16 the official oath in the office of the clerk of the circuit court of the county for which  
 17 appointed before performing any duty of the office. Chapter 75 of the supreme court  
 18 rules shall govern the qualifications for, and appointment, supervision, training,  
 19 evaluation and discipline of, judicial court commissioners.

20 SECTION 32. 757.68 (2) of the statutes is renumbered 753.36 (1) and amended

21 to read: ~~(c) PART-TIME COURT COMMISSIONERS.~~

22 (title) 753.36 (1) In each county the circuit judges shall appoint ~~such~~ the number of  
 23 ~~part-time~~ supplemental court commissioners as the proper transaction of business

1 requires ~~subject to the following exception; except that~~ in counties having a  
2 population of 200,000 or more each judge may appoint not more than 2 ~~such~~  
3 ~~sunnlementa~~✓ commissioners ~~and in counties having a population of less than~~  
4 ~~200,000 each judge shall, as nearly as possible, appoint an equal number of~~  
5 ~~commissioners within the county.~~ In all counties the appointments shall be subject  
6 to the approval of a majority of the circuit judges for the county. Appointments shall  
7 be in writing and shall be filed in the office of the clerk of the circuit court. All court  
8 commissioners appointed after May 16, 1978, other than official court reporters  
9 acting under s. 814.68 (1) (b) performing duties or exercising powers specified for  
10 court reporters, shall be attorneys licensed to practice in this state. The appointing  
11 judge may remove, at will and without cause, any sunnlemental court commissioner  
12 appointed by the judge or the judge's predecessor in office. Unless he or she is so  
13 removed, the term of each sunnlemental court commissioner shall continue until the  
14 expiration of the term of the appointing judge ~~and until the successor of the~~  
15 ~~commissioner is appointed and qualified.~~ Each supplemental court commissioner  
16 shall take and file the official oath in the office of clerk of the circuit court of the  
17 county for ~~which~~ appointed before performing any duty of the office.

History: History: 1973 c. 278; 1975 c. 39; 1975 c. 94 s. 3; 1975 c. 199; 1975 c. 430 s. 80; 1977 c. 187 s. 96; 1977 c. 323 ss. 7, 11; 1977 c. 345; 1977 c. 418 ss 751,752; 1977 c. 447 ss. 192 to 195; 1977 c. 449; Stats. 1977 s. 757.68; 1979 c. 32 s. 92 (16); 1981 c. 317 ss. 85pg. 2202; 1987 a. 151,208.

18 **SECTION 33.** 757.68 (2m)✓ of the statutes is created to read:

19 757.68 (2m) In counties having a population of 500,000 ✓ or more, at least one  
20 full-time judicial court commissioner position shall be established to assist in the  
21 administration of actions under ch. ✓ 799. The county board shall set the salary of a  
22 person appointed to be a full-time judicial ✓ court commissioner under this ✓ subsection.

23 **SECTION 34.** 757.68 (3) and (4) ✗ of the statutes are repealed.



1 SECTION 35. 757.68 (5) ✓ of the statutes is renumbered 753.36 (6) and amended

2 to read:

(title) ↓

3 753.36 (6) ~~FEES. Part-time Supplemental~~ court commissioners appointed

4 under sub. (2) (1) ✓ shall collect the fees prescribed in s. 814.68 (1).

History: History: 1973 c. 278; 1975 c. 39; 1975 c. 94 s 3; 1975 c. 199; 1975 c 430 s. 80, 1977 c. 187 s. 96; 1977 c. 323 ss. 7, 11; 1977 c. 345; 1977 c. 418 ss. 751,752; 1977 c. 447 ss. 192 to 195.1977 c. 449; Stats. 1977 s. 757.68; 1979 c. 32 s. 92 (16); 1981 c. 317 ss. 85pg, 2202; 1987 a. 151,208.

5 SECTION 36. 757.69 (title) of the statutes is amended to read:

6 757.69 (title) Powers 'and duties of judicial ✓ court commissioners.

History: History: 1977 c. 323,449; 1979 c. 32; 1979 c. 89, 1979 c. 209 s. 4; 1979 c. 352, 356; 1983 a. 279; 1985 a. 126, 202, 234, 332; 1987 a. 3, 27, 71, 378, 398; 1989 a. 7, 12, 31,246; Sup. Ct. Order. 158 W (2d) xxv (1990); 1991 a. 39,269; 1993 a. 318, 451, 481; 1995 a. 77.

7 SECTION 37. 757.69 (1) (intro.) ✓ of the statutes is repealed and recreated to read:

8 757.69 (1) (intro.) An order under ✓ SCR 75.02 appointing a judicial court  
9 commissioner shall confer all the powers and duties of a judicial court commissioner  
10 allowed under state law or shall specify the duties that a judicial court commissioner  
11 may perform, including the following:

12 SECTION 38. 757.69 (1) (b) of the statutes is amended to read:

13 757.69 (1) (b) In criminal matters issue summonses, arrest warrants or search  
14 warrants ~~and,~~ conduct initial appearances of persons arrested ~~and,~~ set bail <sup>to plain</sup> to the  
15 ~~same extent as a judge. At the initial appearance, the court commissioner shall,~~  
16 ~~when necessary,~~ inform the defendant in accordance with s. 970.02 (1). ~~If the~~  
17 ~~defendant appears or claims to be unable to afford counsel, the court commissioner,~~  
18 ~~in accordance with s. 970.02 (6), may~~ ✓ ~~and~~ refer the person to the authority for  
19 indigency determinations specified under s. 977.07 (1). ~~If the court commissioner is~~  
20 ~~a full-time~~ ✓ A judicial court commissioner, - may conduct the preliminary  
21 examination and arraignment ~~to the same extent as a judge~~ and, with the consent  
22 of both the state and the defendant, may accept a guilty plea. If a court refers a

1       disputed restitution issue under s. 973.20 (13) (c) 4., the judicial court commissioner  
2       shall conduct the hearing on the matter in accordance with s. 973.20 (13) (c) 4.

History: History: 1977 c. 323,449; 1979 c. 32; 1979 c. 89; 1979 c. 209 s. 4; 1979 c. 352,356; 1983 a. 279; 1985 a. 126, 202, 234, 332; 1987 a. 3, 27, 71, 378, 398; 1989 a. 7, 12, 31, 246; Sup. Ct. Order, 158 W (2d) xxv (1990); 1991 a. 39,269; 1993 a. 318, 451, 481, 1995 a 77.

3       **SECTION 39. 757.69 (1) (g) of the statutes is amended to read:**

4             757.69 (1) (g) When assigned to the court assigned jurisdiction under chs. 48  
5       and 938, a judicial court commissioner may, under ch. 48 or 938, issue summonses  
6       and warrants, order the release or detention of children apprehended, conduct  
7       detention and shelter care hearings, conduct preliminary appearances, conduct  
8       uncontested proceedings under ss. 48.13, 938.12, 938.13 and 938.18, enter into  
9       consent decrees and exercise the powers and perform the duties specified in par. (j)  
10      or (m), whichever is applicable, in proceedings under s. 813.122 or 813.125 in which  
11      the respondent is a child. Contested waiver hearings under s. 938.18 and  
12      dispositional hearings under ss. 48.335 and 938.335 shall be conducted by a judge.  
13      When acting in an official capacity and assigned to the children's court center, a  
14      judicial court commissioner shall sit at the children's court center or such other  
15      facility designated by the chief judge. Any decision by the commissioner shall be  
16      reviewed by the judge of the branch of court to which the case has been assigned,  
17      upon motion of any party. Any determination, order or ruling by the commissioner  
18      may be certified to the branch of court to which such case has been assigned upon a  
19      motion of any party for a hearing de novo.

History: History: 1917 c. 323,449; 1979 c. 32; 1979 c. 89; 1979 c. 209 s. 4; 1979 c. 352,356; 1983 a. 219; 1985 a. 126, 202, 234, 332; 1987 a. 3, 27, 71, 378, 398; 1989 a. 7, 12, 31, 246; Sup. Ct. Order, 158 W (2d) xxv (1990); 1991 a. 39,269; 1993 a. 318, 451, 481, 1995 a. 77. 1

20      **SECTION 40. 757.69 (1) (k) of the statutes is repealed.**

21      **SECTION 41. 757.69 (2) (intro.) of the statutes is amended to read:**

1           757.69 (2) (intro.) A judge may refer to a judicial court commissioner  
 2 appointed under ~~s. 48.065, 757.68, 757.72, 767.13 or 938.065~~ SCR 75.02 cases in  
 3 which:

History: History: 1977 c. 323,449; 1979 c. 32, 1979 c. 89; 1979 c. 209 s. 4; 1979 c. 352,356; 1983 a. 279; 1985 a. 126, 202, 234, 332; 1987 a. 3, 27, 71, 378, 398; 1989 a. 7, 12, 31,246; Sup. Ct. Order, 158 W (2d) xxv (1990); 1991 a. 39,269; 1993 a. 318, 451, 481; 1995 a. 77.

4           **SECTION 42.** 757.69 (2) (a) of the statutes is amended to read:

5           757.69 (2) (a) The trial of an issue of fact requires the examination of an  
 6 account, in which case the judicial court commissioner may be directed to report upon  
 7 any specific question of fact involved therein.

History: History: 1977 c. 323,449; 1979 c. 32, 1979 c. 89; 1979 c. 209 s. 4; 1979 c. 352,356; 1983 a. 279; 1985 a. 126, 202, 234, 332; 1987 a. 3, 27, 71, 378, 398; 1989 a. 7, 12, 31, 246; Sup. Ct. Order, 158 W (2d) xxv (1990); 1991 a. 39,269; 1993 a. 318, 451, 481; 1995 a. 77.

8           **SECTION 43.** 757.69 (2m) of the statutes is created to read:

9           757.69 (2m) Judicial court commissioner have all of the powers listed under  
 10 s. 753.36 (2).

11           **SECTION 44.** 757.69 (3) of the statutes is renumbered 753.36 (2) and 753.36 (2)  
 12 (intro.) and (g), as renumbered, is amended to read:

13           753.36 (2) (intro.) Court Supplemental court commissioners ~~appointed under~~  
 14 ~~s. 48.065, 757.68, 757.72, 767.13 or 938.065~~ may under their own authority:

15           (g) Except as provided in s. 767.13 (5) (c), conduct a paternity proceeding  
 16 according to the procedures set out in ch. 767 whenever a judicial court commissioner  
 17 is specifically authorized to do so.

History: History: 1977 c. 323,449; 1979 c.32; 1979 c. 89.1979 c. 209 s. 4; 1979 c. 352, 356; 1983 a. 279; 1985 a. 126, 202, 234, 332; 1987 a. 3, 27, 71, 378, 398; 1989 a. 7, 12, 31, 246; Sup. Ct. Order, 158 W (2d) xxv (1990); 1991 a. 39,269; 1993 a. 318, 451, 481; 1995 a. 77.

18           **SECTION 45.** 757.69 (4) and (5) of the statutes is renumbered 753.36 (3) and (4)

19 and amended to read:

20           753.36 (3) In addition to the duties expressly set forth in sub. (3) (2) (a) to (c),  
 21 a supplemental court commissioner may perform other ministerial duties as  
 22 required by a court.

1 (4) A supplemental court commissioner may transfer to a court any matter in  
2 which it appears that justice would be better served by such a transfer.

History: History: 1977 c. 323,449; 1979 c. 32; 1979 c. 89; 1979 c. 209 s. 4; 1979 c. 352,356; 1983 a. 279; 1985 a. 126, 202, 234, 332; 1987 a. 3, 27, 71, 378, 398; 1989 a. 7, 12, 31, 246; Sup. Ct. Order, 158 W (2d) xxv (1990); 1991 a. 39, 269; 1993 a. 318, 451, 481; 1995 a. 77.

3 SECTION 46. 757.69 (6) of the statutes is repealed.

4 SECTION 47. 757.69 (7) of the statutes is renumbered 753.36 (5) and amended  
5 to read:

6 753.36 (5) A supplemental court commissioner shall refer to a court of record  
7 for appropriate action every alleged showing of contempt in the carrying out of the  
8 lawful decisions of the supplemental court commissioner.

History: History: 1977 c. 323,449; 1979 c. 32; 1979 c. 89; 1979 c. 209 s. 4; 1979 c. 352,356; 1983 a. 279; 1985 a. 126, 202, 234, 332; 1987 a. 3, 27, 71, 378, 398; 1989 a. 7, 12, 31, 246; Sup. Ct. Order, 158 W (2d) xxv (1990); 1991 a. 39, 269; 1993 a. 318, 451, 481; 1995 a. 77.

9 SECTION 48. 757.695 of the statutes is renumbered 799.08, and 799.08

10 and (intro.), as renumbered, is amended to read:

11 ~~757.695~~ <sup>799.08</sup> (title) **Court Judicial court commissioners; small claims matters.**

12 (intro.) ~~If a~~ A judicial court commissioner ~~has been appointed under s. 757.68 (1) (b)~~  
13 authorized to assist in the administration of 4  
14 matters under this chapter shall conduct the hearings and proceedings as prescribed  
15 by ~~ch. 799 this chanter and shall have~~ ~~following additional duties and authority~~  
16 may:

History: History: 1977 c. 345; 1979 c. 32 s. 92 (16).

17 SECTION 49. 757.70 (2) of the statutes is amended to read:

18 757.70 (2) All hearings before a court commissioner shall be held in the county  
19 courthouse or other court facilities provided by law. This provision does not apply to  
20 nontestimonial proceedings, supplementary hearings on the present financial status  
21 of a debtor under s. ~~757.69 (3)~~ 753.36 (2) (h) or depositions taken before a court  
22 commissioner.

History: History: 1977 c. 323.

1           **SECTION 50.** 757.72 (4) of the statutes is repealed and recreated to read:

2           757.72 (4) Probate court commissioners shall be judicial court commissioners,  
3 appointed under SCR 75.02 (2). Chapter 75 of the supreme court rules shall govern  
4 the qualifications for, and supervision, training, evaluation and discipline of, judicial  
5 court commissioners.

6           **SECTION 51.** 757.72 (5) of the statutes is repealed.

      \*\*\*\*NOTE: SCR 75.02 (3) grants the powers given in this subsection, so the  
subsection is repealed.

7           **SECTION 52.** 757.72 (6) of the statutes is repealed.

8           **SECTION 53.** 757.72 (7) of the statutes is repealed.

9           **SECTION 54.** 757.81 (2) of the statutes is amended to read:

10           757.81 (2) "Court commissioner" means a judicial court commissioner  
11 annointed under s. ~~757.68~~, ~~a family court commissioner under s. 767.13~~, ~~a juvenile~~  
12 ~~court commissioner under s. 48.065 or 938.065~~ and ~~a probate court commissioner~~  
13 ~~under s. 757.72~~ SCR 75.02 (1) or a supplemental court commisssioner authorized  
14 under SCR 75.02 (2) to perform duties specified under SCR 75.03 on a temnorary or  
15 occasional basis.

History: History: 1977 c. 449; 1983 a. 378; 1991 a. 269; 1995 a. 77.

16           **SECTION 55.** 765.16 (5) of the statutes is amended to read:

17           765.16 (5) ~~Any family court commissioner appointed under s. 767.13 or judicial~~  
18 court commissioner annointed under SCR 75.02 (1) or supplemental court  
19 commissioner appointed under s. ~~757.68~~ 753.36 (1).

History: History: 1977 c. 323, 1979 c. 32 ss. 48, 92 (4); 1979 c. 176, 259; Stats. 1979 s. 765.16; 1981 c. 20 s. 2200; 1985 a 29; 1991 a. 315.

20           **SECTION 56.** 767.13 (title) of the statutes is amended to read:

21           7 6 7 . 1 3 ( t i t l e ) **F a m i l y c o u r t c o m m i s s i o n e r 1**  
22 **assistants.**

History: History: 1975 c. 39, 199; 1977 c. 187 s. 135; 1977 c 273; 1977 c. 323 s. 16; 1977 c. 449; 1979 c. 32 s. 50; 1979 c. 96,196; Stats. 1979 s. 767.13; 1983 a. 436; 1985 a. 29; 1987 a. 27,355; Sup. Ct. Order, 158 W (2d) xxv (1990); 1993 a. 481; 1995 a. 27 s. 9126 (19); 1995 a. 404.

1           **SECTION 57. 767.13** (1) of the statutes is amended to read:

2           767.13 (1) **COUNTIES OTHER THAN MILWAUKEE.** (a) **Appointment.** In each county,  
3 except in a county having a population of 500,000 or more, the ~~circuit judges for the~~  
4 ~~county, subject to the approval of the~~ chief judge of the judicial administrative  
5 ~~d i s t r i c t , s h ' a l l~~ 3  
6 ~~the first Monday of July of each year,~~ appoint ~~some re~~ ~~le attorney of recognized~~  
7 ~~ability and sta~~ ~~ing at the bar~~ a judicial court commissioner under SCR 75.02 to  
8 serve as the family court commissioner for the county.

9           (b) **Powers; civil service; oath; temporary appointment; assistants.** ~~The family~~  
10 ~~court commissioner, by virtue of the office and to the extent required for the~~  
11 ~~performance of the duties, has the powers of a court commissioner. The family court~~  
12 ~~commissioner is in addition to the maximum number of court commissioners~~  
13 ~~permitted by s. 757.68.~~ The office of the family court commissioner, or any assistant  
14 family court commissioner, may be placed under a county civil service system by  
15 resolution of the county board. ~~Before entering upon the discharge of the duties the~~  
16 ~~family court commissioner shall take and file the official oath. The person appointed~~  
17 ~~shall continue to act until a successor is appointed and qualified, except that in the~~  
18 ~~event of disability or extended absence the judges may appoint another reputable~~  
19 ~~attorney to act as temporary~~ ~~family court commissioner.~~ The county board may  
20 provide that one or more judicial court commissioners be appointed to serve as  
21 assistant family court commissioners shall be appointed by the circuit judges for the  
22 county, subject to the approval of the chief judge of the judicial administrative

1 district.. <sup>✓</sup> ~~An assistant family court commissioner shall have the same qualifications~~  
 2 ~~as the commissioner and shall take and file the official oath.~~

History: History: 1975 c. 39,199; 1977 c. 187 s. 135; 1977 c. 273; 1977 c. 323 s. 16; 1977 c. 449; 1979 c. 32 s. 50; 1979 c. 96,196; Stats. 1979 s. 767.13; 1983 a. 436; 1985 8.29; 1987 a. 27,355; Sup. Ct. Order, 158 W (2d) xxv (1990); 1993 a. 481; 1995 a. 27 s. 9126 (19); 1995 a. 404.

3 SECTION 58. 767.13 (2) of the statutes is amended to read:

4 767.13 (2) MILWAUKEE COUNTY. (a) **Appointment; assistants; civil service.** In  
 5 counties having a population of 500,000 or more, there is created in the classified civil  
 6 service the office of family court commissioner and such additional assistant family  
 7 court commissioners as the county board shall determine and authorize, who shall  
 8 be judicial court commissioners <sup>✓</sup> ~~appointed from the membership of the~~ ~~or residing~~  
 9 ~~in the county~~ by the chief judge of the judicial administrative district under ~~ss. 63.01~~  
 10 ~~to 63.17~~ SCR 75.02 (1).

11 (b) <sup>(title)</sup> ~~Oath; powers; salary;~~ <sup>✓</sup> Salary; unavailability; duties. ~~Before entering upon~~  
 12 ~~the performance of their duties, the family court commissioner and assistant family~~  
 13 ~~court commissioners shall take and file the official oath.~~ The family court  
 14 commissioner and assistant family court commissioners ~~shall, by virtue of their~~  
 15 ~~respective positions and to the extent required for the performance of their duties,~~  
 16 ~~each have the powers of a court commissioner.~~ <sup>✓</sup> ~~They~~ shall receive such salary as may  
 17 be fixed by the county board, shall perform their duties under the direction of the  
 18 chief judge of the judicial administrative district or a designee and shall be furnished  
 19 with quarters and necessary office furnishings and supplies. The county board shall  
 20 provide them their necessary stenographic and investigational service. When the  
 21 family court commissioner is unavailable, any assistant family court commissioner  
 22 shall perform all the duties and have all the powers of the family court commissioner  
 23 as directed by the commissioner or by the chief judge of the judicial administrative  
 24 district or other judge as the chief judge may designate. In addition to the duties of

1 the family court commissioner under this chapter, the family court commissioner  
2 shall perform other duties as the chief judge of the judicial administrative district,  
3 or other judge as the chief judge may designate, directs.

History: History: 1975 c. 39,199; 1977 c. 187 s. 135; 1977 c. 273; 1977 c. 323 s. 16; 1977 c. 449; 1979 c. 32 s. 50; 1979 c. 96,196; Stats. 1979 s. 767.13; 1983 a. 436; 1985 a. 29; 1987 a. 27,355; Sup. Ct. Order, 158 W (2d) xxv (1990); 1993 a. 481; 1995 a. 27 s. 9126 (19); 1995 a. 404.

4 SECTION 59. 767.13 (4) of the statutes is amended to read:

5 767.13 (4) RETIRED JUDGES. In any county one or more retired or former judges  
6 or retired family<sup>✓</sup>judicial court commissioners may be appointed as temporary or  
7 temporary assistant family court commissioners by a<sup>✓</sup>majority of the ~~judges of the~~  
8 ~~county subject to the approval of~~ the chief judge of the judicial administrative  
9 district. The temporary or temporary assistant family court commissioners shall be  
10 compensated by the county.

History: History: 1975 c. 39,199; 1971 c. 187 s. 135; 1977 c. 273; 1977 c. 323 s. 16; 1977 c. 449; 1979 c. 32 s. 50; 1979 c. 96,196; Stats. 1979 s. 767.13; 1983 a. 436; 1985 a. 29; 1987 a. 27,355; Sup. Ct. Order, 158 W (2d) xxv (1990); 1993 a. 481; 1995 a. 27 s. 9126 (19); 1995 a. 404.

11 SECTION 60. 767.17<sup>✓</sup> of the statutes is repealed.

12 SECTION 61. 767.458 (lm) of the statutes is amended to read:

13 767.458 (lm) In an action to establish the paternity of a child who was born  
14 to a woman while she was married, where a man other than the woman's husband  
15 alleges that he, not the husband, is the child's father, a party may allege that a  
16 judicial determination that a man other than the husband is the father is not in the  
17 best interest of the child. If the court or a supplemental<sup>✓</sup> court commissioner under  
18 ~~s. 757.69 (3) (g) s. 753.36 (2)~~ determines that a judicial determination of whether  
19 a man other than the husband is the father is not in the best interest of the child, no  
20 genetic tests may be ordered and the action shall be dismissed.

History: History: 1979 c. 352; 1983 a. 447 s. 34; Stats. 1983 s. 767.457; 1987 a. 27 ss. 2136t, 2137d, 2137e; Stats. 1987 s. 767.458; 1987 a. 403,413; 1993 a. 16,481; 1995 a. 100.

21 SECTION 62. 767.46 (1) of the statutes is amended to read:



1           767.46 (1) A pretrial hearing shall be held before the court or a supplemental  
 2 court commissioner under <sup>plain</sup> ~~s. 757.69 (3)~~ <sup>plain</sup> ~~(g) 753.36 (2)~~. A record or minutes of  
 3 the proceeding shall be kept. At the pretrial hearing the parties may present and  
 4 cross-examine witnesses, request genetic tests and present other evidence relevant  
 5 to the determination of paternity.

History: History: 1979 c. 352; 1983 a. 447; 1987 a. 27; Sup. Ct. Order, 141 W (2d) xxxix (1987); 1987 a. 355; 1993 a. 481; 1995 a. 100.

6           **SECTION 63.** 767.465 (2) (a) of the statutes is amended to read:

7           767.465 (2) (a) Except as provided in sub. (2m), if a respondent is the alleged  
 8 father and fails to appear at the first appearance, unless the first appearance is not  
 9 required under s. 767.457 (2), scheduled genetic test, pretrial hearing or trial, the  
 10 court shall enter an order adjudicating the respondent to be the father and  
 11 appropriate orders for support, legal custody and physical placement. The orders  
 12 shall be either served on the respondent or mailed by regular, registered or certified  
 13 mail, to the last-known address of the respondent. The orders shall take effect 30  
 14 days after service or 30 days after the date on which the orders were mailed unless,  
 15 within that time, the respondent presents to the court or <sup>✓</sup> a supplemental court  
 16 commissioner under <sup>plain</sup> ~~s. 757.69 (3)~~ <sup>plain</sup> ~~(g) 753.36 (2)~~ evidence of good cause for failure  
 17 to appear or failure to have undergone a genetic test.

History: History: 1979 c. 352; 1983 n. 447. 1987 a. 27, 403, 413; 1989 a. 31, 56, 212; 1993 a. 481; 1995 a. 100.

18           **SECTION 64.** 782.01 (3) of the statutes is amended to read:

19           **782.01 (3)** In this chapter, unless the context requires otherwise, judge includes  
 20 the supreme court, the court of appeals and circuit courts and each justice and judge  
 21 thereof and judicial and supplemental <sup>✓</sup> court commissioners; and prisoner includes  
 22 every person restrained of personal liberty; and imprisoned includes every such  
 23 restraint, and respondent means the person on whom the writ is to be served.

History: History: 1971 c. 57; 1973 c. 198; 1977 c. 187,449; 1979 c. 32 ss. 59.92 (11); 1979 c. 176: Stats. 1979 s. 782.01.

1           **SECTION 65.** 782.03 of the statutes is amended to read:

2           **782.03 Petition for writ.** Application for the writ shall be by petition, signed  
 3 either by the prisoner or by some person in his or her behalf, and may be made to the  
 4 supreme court, the court of appeals or the circuit court of the county, or to any justice  
 5 or judge of the supreme court, court of appeals or circuit court or to any Judicial or  
 6 sunnlemental court commissioner, within the county where the prisoner is detained;  
 7 or if there is no judge within the county, or for any cause he or she is incapable of  
 8 acting, or has refused to grant the writ, then to some judge residing in an adjoining  
 9 county; but every application, made by or on behalf of a person sentenced to the state  
 10 prisons, must contain a copy of any motion made under s. 974.06 and shall indicate  
 11 the disposition of the motion and the court in which the disposition was made. If no  
 12 motion was made, the petition shall so state.

History: History: 1977 c. 187,449; 1979 c. 32 s. 59; Stats. 1979 s. 782.03.

13           **SECTION 66.** 782.28 of the statutes is amended to read:

14           **782.28** <sup>(title)</sup> **Transfer from judicial or supplemental court commissioner.** If  
 15 the writ is returnable before a judicial or supplemental court commissioner, either  
 16 party may make a request for transfer to the court in which the matter is filed. Upon  
 17 receipt of such request the judicial or supplemental court commissioner shall  
 18 forthwith transmit all papers and records in the proceedings to the court.

History: History: 1977 c. 135; 1979 c. 32 s. 59; Stats. 1979 s 782.28.

19           **SECTION 67.** 799.05 (7) (intro.) of the statutes is amended to read:

20           799.05 (7) FORM; COURT COMMISSIONER. (intro.) Except as provided in s. 799.22  
 21 (4) (b) 3., in counties ~~establishing at least one~~ ~~ne or full-time court~~  
 22 ~~commissioner position under s. 757.68 (1)(b)~~ in which a judicial court commissioner

1 is authorized to assist in the administration of matters under this chapter, the  
2 summons shall be substantially in the following form:

History: History: 1977 c. 345; 1977 c. 449 s. 497; 1979 c. 32 ss. 66.92 (16); 1979 c. 108; 1979 c. 176 s. 85; 1979 c. 177 s. 85; Stats. 1979 s. 799.05, Sup. Ct. Order, 130 W (2d) xi; 1987 a. 142, 208, 403; 1989 a. 56; 1991 a. 163, 236; Sup. Ct. Order, 171 W (2d) xix (1992); 1993 a. 80.

3 **SECTION 68. 799.06 (1) of the statutes is amended to read:**

4 799.06 ( 1 ) **PLEADINGS.** All pleadings except the initial complaint may be oral.  
5 Any circuit court may by rule require written pleadings and any judge or judicial  
6 court commissioner may require written pleadings in a particular case.

History: History: Sup. Ct. Order, 67 W (2d) 585,764 (1975), 1977 c. 449 s. 497; 1979 c. 32 ss. 66.92 (16); 1979 c. 108; Stats. 1979 s. 799.06; 1987 a. 208; 1991 a. 163; Sup. Ct. Order, 171 W (2d) xix (1992).

7 **SECTION 69. 799.11 (3) of the statutes is amended to read:**

8 **799.11 (3)** When, in any action under this chapter, it appears from the return  
9 of service of the summons or otherwise that the county in which the action is pending  
10 is not a proper place of trial and that another county would be a proper place of trial,  
11 the court or judicial court commissioner shall, on motion of a party or its own motion,  
12 transfer the action to that county unless the defendant appears and waives the  
13 improper venue. The clerk of the court to which the action is transferred shall issue  
14 a new notice of return date upon payment of the fee required by s. 814.61 (2) (a).

History: History: 1979 c. 32 ss. 66, 92 (16); Stats. 1979 s. 799.11; 1981 c. 300; 1981 c. 390 s. 252; 1983 a. 228, 389, 538; 1987 a. 208

15 **SECTION 70. 799.20 (4) of the statutes is amended to read:**

16 799.20 (4) **INQUIRY OF DEFENDANT WHO APPEARS ON RETURN DATE.** If the defendant  
17 appears on the return date of the summons or any adjourned date thereof, the court  
18 or court commissioner shall make sufficient inquiry of the defendant to determine  
19 whether the defendant claims a defense to the action. If it appears to the court or  
20 judicial court commissioner that the defendant claims a defense to the action, the  
21 court or judicial court commissioner shall schedule a trial of all the issues involved

1 in the action, unless the parties stipulate otherwise or the action is subject to  
2 immediate dismissal.

History: History: Sup. Ct. Order, 67 W (2d) 585, 765 (1975) 977 c. 449; 1979 c. 32 s. 66; Stats. 1979 s. 799.20; 1987 a. 208.

3 **SECTION 71.** 799.206<sup>5X!</sup> of the statutes is repealed.

4 **SECTION 72.** 799.207 (title) of the statutes is amended to read:

5 799.207 (title) **Proceedings before judicial court commissioner.**

History: History: 1977 c. 345; 1979 c. 32 s. 66; 1979 c. 110; Stats. 1979 s. 799.207; Sup. Ct. Order, 141 W (2d) xiii (1987); 1987 a. 208.

6 **SECTION 73.** 799.207 (1) (a) of the statutes is amended to read:

7 799.207 **(1)** (a) Any judicial court commissioner assigned to assist in the  
8 administration of small claims may hold a conference with the parties or their  
9 attorneys or both on the return date, examine pleadings and identify issues.

History: History: 1977 c. 345; 1979 c. 32 s. 66; 1979 c. 110; Stats. 1979 s. 799.207; Sup. Ct. Order, 141 W (2d) xiii (1987); 1987 a. 208.

10 **SECTION 74.** 799.207 (1) (b) of the statutes is amended to read:

11 799.207 **(1)** (b) Except as provided in par. (e), a decision shall be rendered by  
12 the judicial court commissioner on the return date if there is time available for a  
13 hearing, the parties do not intend to call witnesses, and the parties agree to such a  
14 hearing. If for any of the reasons stated in this paragraph, the matter cannot be  
15 heard on the return date, an adjourned date shall be set.

History: History: 1977 c. 345; 1979 c. 32 s. 66; 1979 c. 110; Stats. 1979 s. 799.207; Sup. Ct. Order, 141 W (2d) xiii (1987); 1987 a. 208.

16 **SECTION 75.** 799.207 (1) (e) of the statutes is amended to read:

17 799.207 **(1)** (e) If the judicial commissioner cannot reach a decision on the  
18 return or adjourned date, the commissioner shall mail the decision to each party  
19 within 30 days of the date of the hearing.

History: History: 1977 c. 345; 1979 c. 32 s. 66; 1979 c. 110; Stats. 1979 s. 799.207; Sup. Ct. Order, 141 W (2d) xiii (1987); 1987 a. 208.

20 **SECTION 76.** 799.207 (2) (intro.) of the statutes is amended to read:

(intro.)

1 799.207 (2) The judicial court commissioner's decision shall become a  
2 judgment 11 days after rendering, if oral, and 16 days after mailing, if written, except  
3 that:

History: History: 1977 c. 345; 1979 c. 32 s. 66; 1979 c. 110; Stats. 1979 s. 799.207; Sup. Ct. Order, 141 W (2d) xiii (1987); 1987 a. 208.

4 SECTION 77. 799.207 (3) (b) of the statutes is amended to read:

5 799.207 (3) (b) The judicial court commissioner shall give each of the parties  
6 a form and instructions which shall be used for giving notice of an election to have  
7 the matter heard by the court.

History: History: 1977 c. 345; 1979 c. 32 s. 66; 1979 c. 110; Stats. 1979 s. 799.207; Sup. Ct. Order, 141 W (2d) xiii (1987); 1987 a. 208.

8 SECTION 78. 799.209 (1) to (4) of the statutes are amended to read:

9 799.209 (1) The court or judicial court commissioner shall conduct the  
10 proceeding informally, allowing each party to present arguments and proofs and to  
11 examine witnesses to the extent reasonably required for full and true disclosure of  
12 the facts.

13 (2) The proceedings shall not be governed by the common law or statutory rules  
14 of evidence except those relating to privileges under ch. 905 or to admissibility under  
15 s. 901.05. The court or judicial court commissioner shall admit all other evidence  
16 having reasonable probative value, but may exclude irrelevant or repetitious  
17 evidence or arguments. An essential finding of fact may not be based solely on a  
18 declarant's oral hearsay statement unless it would be admissible under the rules of  
19 evidence.

20 (3) The court or judicial court commissioner may conduct questioning of the  
21 witnesses and shall endeavor to ensure that the claims or defenses of all parties are  
22 fairly presented to the court or judicial court commissioner.

23 (4) The court or judicial court commissioner shall establish the order of trial  
24 and the procedure to be followed in the presentation of evidence and arguments in

1 an appropriate manner consistent with the ends of justice and the prompt resolution  
2 of the dispute on its merits according to the substantive law.

History: History: 1987 a. 208; 1991 a. 269.

3 **SECTION 79. 799.21 (3) (b)** of the statutes is amended to read:

4 **799.21 (3) (b)** In counties ~~establishing at least one part-time or full-time court~~  
5 ~~commissioner position under s. 757.68 (1) (b)~~ <sup>✓</sup> in which judicial court commissioners  
6 are authorized to assist in the administration of matters under this chapter, except  
7 in eviction actions which shall be governed by par. (a), demand for trial by jury shall  
8 be made at the time a demand for trial is filed. If the party requesting a trial does  
9 not request a jury trial, any other party may request a jury trial by filing the request  
10 with the court and mailing copies to all other parties within 15 days from the date  
11 of mailing of the demand for trial or the date on which personal notice of demand is  
12 given, whichever is applicable. If no party demands a trial by jury, the right to trial  
13 by jury is waived forever. The fees prescribed in ss. 814.61 (4) and 814.62 (3) (e) shall  
14 be paid when the demand for a trial by jury is filed.

History: History: Sup. Ct. Order, 67 W (2d) 585, 776 (1975); 1977 c. 345,449; 1979 c. 32 s. 66; 1979 c. 128; Stats. 1979 s. 799.21; 1981 c. 317; 1987 a. 208.

15 **SECTION 80. 799.21 (4)** of the statutes is amended to read:

16 **799.21 (4) JURY PROCEDURE.** If there is a demand for a trial by jury, the judge  
17 or judicial <sup>✓</sup> court commissioner shall place the case on the trial calendar and a jury  
18 of 6 persons shall be chosen as provided in s. 345.43 (3) (b). The parties shall proceed  
19 as if the action had originally been begun as a proceeding under chs. 801 to 807,  
20 except that the court is not required to provide the jury with one complete set of  
21 written instructions under s. 805.13 (4) and the requirements for appearance by the  
22 parties shall be governed by s. 799.06 (2).

History: History: Sup. Ct. Order, 67 W (2d) 585,776 (1975); 1977 c. 345,449; 1979 c. 32 s. 66; 1979 c. 128; Stats. 1979 s. 199.21; 1981 c. 317; 1987 a. 208.

1           **SECTION 81.** 799.24 (1)✓ of the statutes, as affected by 1997 Wisconsin Act 27,  
2 is amended to read:

3           **799.24 (1) ENTRY OF JUDGMENT OR ORDER; NOTICE OF ENTRY THEREOF.** When a  
4 judgment or an order is rendered, the judge, judicial✓ court commissioner or clerk of  
5 circuit court shall immediately enter it in the court record and note the date thereof  
6 which shall be the date of entry of judgment or order. The clerk of circuit court, except  
7 in municipal and county forfeiture actions, shall mail a notice of entry of judgment  
8 to the parties or their attorneys at their last-known address within 5 days of its  
9 entry. Upon payment of the exact amount of the fee prescribed in s. 814.62 (3) (c),  
10 the clerk of circuit court shall enter the judgment in the judgment and lien docket.

History: History: Sup. Ct. Order, 67 W (2d) 585,776 (1975); 1977 c. 345; 1979 c. 32 s 66; Stats. 1979 s. 799.24; 1981 c. 317; 1983 a. 302 s. 8; 1987 a. 208; 1995 a. 224; 1997 a. 27.

11           **SECTION 82.** 799.24 (3) of the statutes is amended to read:

12           **799.24 (3) STIPULATED DISMISSAL.** Prior to the entry of judgment, upon  
13 stipulation of the parties to a schedule for compliance with the stipulation, the court  
14 or judicial✓ court commissioner may enter a stipulated judgment of dismissal in lieu  
15 thereof. Any such judgment may be vacated without notice to the obligated party,  
16 and the unsatisfied portion thereof entered, upon application by the prevailing party  
17 and proof by affidavit of noncompliance with the terms of the stipulation.

History: History: Sup. Ct. Order, 67 W (2d) 585,776 (1975); 1977 c. 345; 1979 c. 32 s. 66; Stats. 1979 s. 799.24; 1981 c. 317; 1983 a. 302 s. 8; 1987 a. 208; 1995 a. 224; 1997 a. 27.

18           **SECTION 83.** 799.26 (1) of the statutes is amended to read:

19           **799.26 (1)** When a judgment for money damages is entered under this chapter,  
20 the court or judicial✓ court commissioner shall order the judgment debtor to execute  
21 under penalty of contempt a disclosure statement and to mail or deliver that  
22 statement to the judgment creditor or to the clerk of circuit court in the county where  
23 the judgment is entered within 15 days of entry of judgment unless the judgment is

1 sooner satisfied. The statement shall disclose, as of the date of judgment, the debtor's  
2 name, residence address, employers and their addresses, any real property interests  
3 owned by the debtor, cash on hand, financial institutions in which the judgment  
4 debtor has funds on deposit, whether the debtor's earnings are totally exempt from  
5 garnishment under s. 812.34 (2) (b), and such other information as required by the  
6 schedules adopted under sub. (3).

History: History: 1987 a. 208; 1991 a. 182; 1993 a. 80.

7 **SECTION 84.** 807.04 of the statutes is amended to read:

8 **807.04 Proceedings, where held; restriction as to making orders. All**  
9 trials, and all hearings at which oral testimony is to be presented, shall be held in  
10 open court. The court may make any order which a judge or court commissioner has  
11 power to make. ~~Court commissioners shall have the powers provided in ch 753 or~~  
12 ~~by other statute.~~

History: History: Sup. Ct. Order, 67 W (2d) 585,743 (1975), 1977 c. 187 s. 135.

13 **SECTION 85.** 807.09 (1) of the statutes is amended to read:

14 **807.09 (1)** A circuit judge of the circuit court of any county may appoint and  
15 remove at any time, any retired or former circuit or county court judge to act, in  
16 matters referred by the judge and in conciliation matters. When a matter for  
17 conciliation is referred for such purpose, the conciliator shall have full authority to  
18 hear, determine and report findings to the court. Such conciliators may be appointed  
19 judicial court commissioners as provided in s. ~~757.68~~ under SCR 75.02 (1).

History: History: Sup. Ct. Order, 67 W (2d) 585,746 (1975); 1975 c. 218; 1977 c. 187 s. 135; 1977 c. 323 s. 16.

20 **SECTION 86.** 812.30 (2) of the statutes is amended to read:

21 812.30 (2) "Court" includes a judicial court commissioner assigned to preside  
22 at a proceeding under this subchapter.

History: History: 1993 a. 80; 1995 a. 27,201.

23 **SECTION 87.** 813.12 (3) (d) of the statutes is amended to read:



1           813.12 (3) (d) The judge or family✓ court commissioner shall advise the  
2 petitioner of the right to serve the respondent the petition by published notice if with  
3 due diligence the respondent cannot be served as provided under s. 801.11 (1) (a) or  
4 (b). The clerk of circuit court shall assist the petitioner with the preparation of the  
5 notice and filing of the affidavit of printing.

History: History: 1983 a. 204,540; 1985 a. 29, 135; 1989 a. 193; 1993 a. 319; 1995 a. 71,306.

6           **SECTION 88.** 813.12 (4m) (a) 2. of the statutes is amended to read:

7           813.12 (4m) (a) 2. Except as provided in par. (ag), require the respondent to  
8 surrender any firearms that he or she owns or has in his or her possession to the  
9 sheriff of the county in which the action under this section was commenced, to the  
10 sheriff of the county in which the respondent resides or to another person designated  
11 by the respondent and approved by the judge or family court commissioner. The  
12 judge or family✓ court commissioner shall approve the person designated by the  
13 respondent unless the judge or family✓ court commissioner finds that the person is  
14 inappropriate and places the reasons for the finding on the record. If a firearm is  
15 surrendered to a person designated by the respondent and approved by the judge or  
16 family court commissioner, the judge or family court commissioner shall **inform** the  
17 person to whom the firearm is surrendered of the requirements and penalties under  
18 s. 941.29 (4).

History: History: 1983 a. 204,540; 1985 a. 29,135; 1989 a. 193; 1993 a. 319; 1995 a. 71,306.

19           **SECTION 89.** 813.122 (1) (e) of the statutes is created to read:

20           813.122 (1) (e) "Court commissioner" ✓ means a judicial court commissioner  
21 acting as a family court commissioner.

22           **SECTION 90.** 813.123 (1) (cm) of the statutes is created to read:

23           813.123 (1) (cm) "Court commissioner" ✓ means a judicial court commissioner  
24 acting as a family court commissioner.

Insert 33-2

1 ~~SECTION 91. 813.125 (1) (intro.) of the statutes is renumbered 813.125 (1) (a)~~

2 ~~SECTION 92. 813.125 (1) (b) of the statutes is created to read:~~  
3 SECTION 92. 813.125 (1) (b) of the statutes is created to read:

4 813.125 (1) (b) "Court commissioner" means a judicial court commissioner  
5 acting as a family court commissioner.

6 SECTION 93. 814.61 (12)(b) 3. of the statutes is amended to read:

7 814.61 (12)(b) 3. The clerk may apply to the court or family court commissioner  
8 for an assignment relating to the annual fee in accordance with s. 767.265 or for an  
9 account transfer relating to the annual fee in accordance with s. 767.267.

NOTE: NOTE: Par. (b) is repealed eff. October 1, 1999 or the date stated in the Wisconsin Administrative Register under s. 767.29 (1) (f), whichever is earlier, by 1997 Wis. Act 27.

History: History: 1981 c. 317; 1983 a. 27; 1983 a. 189 s. 329 (28); 1983 a. 228, 447, 538; 1985 a. 29, 169; 1987 a. 27 ss. 2143p, 3202 (24); 1987 a. 144, 355, 399; 1989 a. 31; 1989 a. 56 s. 259; 1989 a. 191; 1991 a. 39, 221, 269; 1993 a. 16, 319, 326, 481, 491; 1995 a. 27, 201, 224, 269, 279, 289, 306; 1997 a. 27, 35.

10 SECTION 94. 814.612 (2) of the statutes is amended to read:

11 814.612 (2) The support collection designee may apply to the court or family  
12 court commissioner for an assignment relating to the annual fee in accordance with  
13 s. 767.265.

NOTE: NOTE: This section is repealed eff. October 1, 1999 or the date stated in the Wisconsin Administrative Register under s. 767.29 (1) (f), whichever is earlier, by 1997 Wis. Act 27.

History: History: 1995 a. 279; 1997 a. 27, 35.

14 SECTION 95. 814.68 of the statutes is repealed and recreated to read:

15 **814.68 Fees of supplemental court commissioners** Supplemental court  
16 commissioners shall collect reasonable fees or per diem compensation established by  
17 rule under s. 753.35.

18 SECTION 96. 816.03 (1) (b) of the statutes is amended to read:

19 816.03 (1) (b) A judicial or supplemental court commissioner upon application  
20 of a judgment creditor shall order any judgment debtor to appear before the court  
21 commissioner and answer concerning the judgment debtor's property at a time and

*Not bolded*

1 place specified in the order, within said county, in lieu of the procedure set forth in  
2 par. (a).

**History:** **History:** 1971 c. 123; Sup. Ct. Order, 67 W (2d) 585,761 (1975); Stats. 1975 s. 816.03, 1993 a. 213,486.

3 **SECTION 97.** 816.035' (1) and (2) of the statutes are amended to read:

4 **816.035** (1) An order under s. 816.03 (1) issued by a judicial or sunnlemental ✓  
5 court commissioner shall be served in the same manner as the service of a summons  
6 under s. 801.11. The return on the order shall be made to the commissioner who  
7 issued the order. The commissioner shall file the order and the return with the clerk  
8 of the court in which the judgment involved is entered.

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9 (2) Upon issuance of the order, the judicial or supplemental court  
10 commissioner shall collect the fee prescribed in s. 814.68 (2) for attendance upon the  
11 examination.

**History:** **History:** Sup. Ct Order, 67 W (2d) 585, 761, 781 (1975); Stats. 1975 s. 816.035; 1981 c. 317; 1993 a. 22.

12 **SECTION 98.** 879.61 of the statutes is amended to read:

13 **879.61 Discovery proceedings.** Any personal representative or any person  
14 interested who suspects that any other person has concealed, stolen, conveyed or  
15 disposed of property of the estate; or is indebted to the decedent; possesses, controls  
16 or has knowledge of concealed property of the decedent; possesses, controls or has  
17 knowledge of writings which contain evidence of or tend to disclose the right, title,  
18 interest or claim of the decedent to any property; or possesses, controls or has  
19 knowledge' of any will of the decedent, may file a petition in the court so stating. The  
20 court upon such notice as it directs, may order the other person to appear before the  
21 court or a judicial or supplemental ✓ court commissioner for disclosure, may subpoena  
22 witnesses and compel the production of evidence and may make any order in relation  
23 to the matter as is just and proper.

**History:** **History:** 1977 c. 449.

1           **SECTION 99.** 885.10 of the statutes is amended to read:

2           **885.10 Witness for indigent respondent or defendant.** Upon satisfactory  
3 proof of the financial inability of the respondent or defendant to procure the  
4 attendance of witnesses for his or her defense, the judge or <sup>✓</sup>a judicial court  
5 commissioner, in any paternity proceeding or criminal action or proceeding, or in any  
6 other case in which the respondent or defendant is represented by the state public  
7 defender or by assigned counsel under s. 977.08, to be tried or heard before him or  
8 her, may direct the witnesses to be subpoenaed as he or she determines is proper and  
9 necessary, upon the respondent's or defendant's oath or affidavit or that of the  
10 respondent's or defendant's attorney. Witnesses so subpoenaed shall be paid their  
11 fees in the manner that witnesses for the state therein are paid. Determination of  
12 **indigency**, in full or in part, under s. 977.07 is proof of the respondent's or defendant's  
13 financial inability to procure the attendance of witnesses for his or her defense.

History: History: 1977 c 305; 1983 a. 377, 447, 538; 1985 a. 135.

14           **SECTION 100.** 885.12 of the statutes is amended to read:

15           **885.12 Coercing witnesses before officers and boards.** If any person,  
16 without reasonable excuse, fails to attend as a witness, or to testify as lawfully  
17 required before any arbitrator, coroner, medical examiner, board, commission,  
18 commissioner, examiner, committee, or other officer or person authorized to take  
19 testimony, or to produce a book or paper which the person was lawfully directed to  
20 bring, or to subscribe the person's deposition when correctly reduced to writing, any  
21 judge of a court of record or a judicial <sup>✓</sup> court commissioner in the county where the  
22 person was obliged to attend may, upon sworn proof of the facts, issue an attachment  
23 for the person, and unless the person shall purge the contempt and go and testify or  
24 do such other act as required by law, may commit the person to close confinement in

1 the county jail until the person shall so testify or do such act, or be discharged  
2 according to law. The sheriff of the county shall execute the commitment.

History: History: 1973 c. 272; 1993 a. 486.

3 **SECTION 101.** 887.26 (7) of the statutes is amended to read:

4 887.26 (7) **FEES.** The persons who take depositions and the witness shall be  
5 entitled to the fees allowed court commissioners under s. 814.68 <sup>✓</sup>(1) and witnesses  
6 for similar service by the law of this state, or such as may be prescribed by the law  
7 of the state or country where taken.

History: History: Sup. Ct. Order, 67 W (2d) 585,784 (1975); 1975 c. 218; 1977 c. 187 s. 135; 1977 c. 323 s. 16; 1981 c. 317 s. 2202; 1993 a. 486.

8 **SECTION 102.** 898.02 of the statutes is amended to read:

9 **898.02 Notice to plaintiff.** The person shall cause notice to be given to the  
10 plaintiff in the action, the plaintiff's agent or attorney, in writing, that at a time and  
11 place specified in the notice the person will apply to the circuit judge or a judicial  
12 court commissioner of the county in which the person is so confined for the purpose  
13 of obtaining a discharge from imprisonment.

History: History: 1977 c. 449.

14 **SECTION 103.** 898.04 of the statutes is amended to read:

15 **898.04 Prisoner to be examined.** At the time and place specified in the  
16 notice the person shall be taken, under the custody of the jailer, the sheriff or the  
17 sheriff's deputy, before the circuit judge or a judicial<sup>✓</sup> court commissioner, who shall  
18 examine the prisoner on oath concerning his or her estate and effects and the  
19 disposal thereof and the prisoner's ability to pay the judgment for which he or she  
20 is committed; and who shall also hear any other legal and pertinent evidence that  
21 may be produced by the debtor or the creditor.

History: History: 1977 c. 449.

22 **SECTION 104.** 898.11 of the statutes is amended to read:

1           **898.11 Inability to pay fees.** If the prisoner is unable to pay in whole or in  
2 part the fees of the circuit judge or a judicial court commissioner in the proceedings,  
3 the proceedings shall continue without charge to the prisoner.

History: History: 1977 c. 449.

4           **SECTION 105.** 906.15 of the statutes is amended to read:

5           **906.15 Exclusion of witnesses.** At the request of a party the judge ~~or court~~  
6 ~~commissioner~~ shall order witnesses excluded so that they cannot hear the testimony  
7 of other witnesses, and the judge ~~or court commissioner~~ may make the order of his  
8 or her own motion. This section does not authorize exclusion of (1) a party who is a  
9 natural person, or (2) an officer or employe of a party which is not a natural person  
10 designated as its representative by its attorney, or (3) a person whose presence is  
11 shown by a party to be essential to the presentation of the party's cause. The judge  
12 ~~or court commissioner~~ may direct that all such excluded and non-excluded  
13 witnesses be kept separate until called and may prevent them from communicating  
14 with one another until they have been examined or the hearing is ended.

History: History: Sup. Ct. Order, 59 W (2d) R1, R202 (1973); 1991 a. 32.

✓ \*\*\*\*NOTE: I removed the term "court commissioner" because of the meaning of "judge"  
in s. 911.01 (1), as amended in this draft.

15           **SECTION 106.** 911.01 (1) of the statutes is amended to read:

16           **911.01 (1) COURTS AND COURT COMMISSIONERS.** Chapters 901 to 911 apply to the  
17 courts of the state of Wisconsin, including municipal courts, family court  
18 commissioners, and court commissioners in the proceedings and to the extent  
19 hereinafter set forth except as provided in s. 972.11. The word "judge" in chs. 901 to  
20 911 means judge of a court of record, municipal judge, ~~family~~ Judicial court  
21 commissioner, and municipal court commissioner.

History: History: Sup. Ct. Order, 59 W (2d) RI, R366 (1973); 1977 c. 305 s. 64; 1977 c. 345; 1979 c 32 s. 92 (16); 1981 c. 183, 367, 390, 391; 1987 a. 208,398; 1991 a.  
40, 269.

22           **SECTION 107.** 938.065 (1) of the statutes is amended to read:

1           938.065 (1) The board of supervisors of any county may ~~authorize the chief~~  
2 ~~judge of the judicial administrative district~~ ~~to appoint~~ establish ✓ one or more  
3 part-time or full-time positions of ✓ juvenile court commissioners who shall ~~serve at~~  
4 ~~the discretion of~~ be judicial court commissioners appointed by the chief judge. ~~A~~  
5 ~~juvenile court commissioner shall be licensed to practice law in this state and shall~~  
6 ~~have been so licensed for at least 2 years immediately prior to appointment and shall~~  
7 ~~have a demonstrated interest in the welfare of juveniles~~ under SCR 75.02 (1). The  
8 chief judge may assign law clerks, bailiffs and deputies to the juvenile court  
9 commissioner. The chief judge shall supervise ~~juvenile court~~ ~~commissioners~~, law  
10 clerks, bailiffs and deputies, except that the chief judge may delegate any of those  
11 duties.

History: History: 199.5 a. 77, 352, 1997 a. 35

12           **SECTION 108.** 938.30 (9) of the statutes is amended to read:

13           938.30 (9) If a juvenile ✓ court commissioner conducts the plea hearing and  
14 accepts an admission of the alleged facts in a petition brought under s. 938.12 or  
15 938.13, the judge shall review the admission at the beginning of the dispositional  
16 hearing by addressing the parties and making the inquires set forth in sub. (8).

History: History: 1995 a. 27 s. 9126 (19); 1995 a. 77; 1997 a. 27, 35; s. 13.93 (2) (c).

17           **SECTION 109.** 940.203 (1) (b) of the statutes is amended to read:

18           940.203 (1) (b) "Judge" means a supreme court justice, court of appeals judge,  
19 circuit court judge, municipal judge, temporary or permanent reserve judge or  
20 ~~juvenile, probate, family, or other judicial, suonlemental or municipal court~~  
21 commissioner.

History: History: 1993 a. 50,446.

22           **SECTION 110.** 943.013 (1) (b) of the statutes is amended to read:

1           943.013 (1) (b) "Judge" means a supreme court justice, court of appeals judge,  
2           circuit court judge, municipal judge, temporary or permanent reserve judge or  
3           ~~juvenile, probate, family or other~~ judicial, sunnlemental or municipal court  
4           commissioner..

History: History: 1993 a. 50,446.

5           **SECTION 111.** 967.07 of the statutes is amended to read:

6           967.07   ~~Court~~ Judicial court ✓ **commissioners.**   A ✓ judicial court  
7           commissioner may exercise powers or perform duties specified for a judge if such  
8           action is permitted under s. 757.69.

History: History: 1977 c. 323.

9           **SECTION 112.** 971.20 (3) (a) of the statutes is amended to read:

10          971.20 (3) (a) In this subsection, "judge" includes a ✓ judicial court commissioner  
11          who is assigned to conduct the preliminary examination.

History: History: 1981 c. 137; 1987 a. 27.

12          **SECTION 113.** 973.20 (13) (c) 4. of the statutes is amended to read:

13          973.20 (13) (c) 4. Refer the disputed restitution issues to a ✓ judicial court  
14          commissioner or other appropriate referee, who shall conduct a hearing on the  
15          matter and submit the record thereof, together with proposed findings of fact and  
16          conclusions of law, to the court within 60 days of the date of referral. Within 30 days  
17          after the referee's report is filed, the court shall determine the amount of restitution  
18          on the basis of the record submitted by the referee and incorporate it into the  
19          sentence or probation order imposed. The judge may direct that hearings under this  
20          subdivision be recorded either by audio recorder or by a court reporter. A transcript  
21          is not required unless ordered by the judge.

History: History: 1987 a. 398 ss. 39 to 41, 43; 1989 a. 31, 188, 1991 a. 39,269; 1993 a. 213; 1995 a. 141,161.

22          **SECTION 114.** 979.05 (1) of the statutes is amended to read:



1            979.05 (1) An inquest shall be conducted by a circuit judge or a judicial court  
2 commissioner.

History: History: 1983 a. 279, Sup. Ct. Order, No. 96-08, filed 1-16-97, eff. 7-1-97.

3            **SECTION 115.** 979.05 (2) of the statutes, as affected by 1996 Supreme Court  
4 Order 96-08, is repealed and recreated to read:

5            979.05 (2) The inquest shall be conducted before a jury unless the district  
6 attorney, coroner or medical examiner requests that the inquest be conducted before  
7 the judge or judicial court commissioner only. If the inquest is to be conducted before  
8 a jury, a sufficient number of names of prospective jurors shall be selected from the  
9 prospective juror list for the county in which the inquest is to be held by the clerk of  
10 circuit court in the manner provided in s. 756.06. The judge or judicial court  
11 commissioner conducting the inquest shall summon the prospective jurors to appear  
12 before the judge or judicial court commissioner at the time fixed in the summons.

13 The summons may be served by mail, or by personal service if the judge, judicial court  
14 commissioner or district attorney determines personal service to be appropriate. The  
15 summons shall be in the form used to summon petit jurors in the circuit courts of the  
16 county. Any person who fails to appear when summoned as an inquest juror is  
17 subject to a forfeiture of not more than \$40. The inquest jury shall consist of 6 jurors.  
18 If 6 jurors do not remain from the number originally summoned after establishment  
19 of qualifications, the judge or judicial court commissioner conducting the inquest  
20 may require the clerk of the circuit court to select sufficient additional jurors' names.  
21 Those persons shall be summoned forthwith by the sheriff of the county.

History: History: 1983 a. 279; Sup. Ct. Order, No. 96-08, filed 1-16-97, eff. 7-1-97.

22            **SECTION 116.** 979.05 (3) of the statutes, as affected by 1996 Supreme Court  
23 Order 96-08, is repealed and recreated to read:

1           979.05 (3) The judge or judicial<sup>✓</sup> court commissioner shall examine on oath or  
 2 affirmation each person who is called as a juror to discover whether the juror is  
 3 related by blood or marriage to the decedent, any member of the decedent's family,  
 4 the district attorney, any other attorney appearing in the case, any members of the  
 5 office of the district attorney or any other attorney appearing in the case or has  
 6 expressed or formed any opinion regarding the matters being inquired into or is  
 7 aware of or has any bias or prejudice concerning the matters being inquired into in  
 8 the inquest. If any<sup>✓</sup> prospective juror is found to be not indifferent or is found to have  
 9 formed an opinion which cannot be laid aside, that juror shall be excused. The judge  
 10 or judicial court commissioner may select one or more alternate jurors if the inquest  
 11 is likely to be protracted. This subsection does not limit the right of the district  
 12 attorney to supplement the judge's or<sup>✓</sup> judicial court commissioner's examination of  
 13 any prospective<sup>✓</sup> jurors as to qualifications.

History: History: 1983 a. 279; Sup. Ct. Order, No. 96-08, filed I-16-97, eff 7-1-97.

14           **SECTION 117.** 979.05 (4) of the statutes is amended to read:

15           979.05 (4) When 6 jurors have been selected, the judge or<sup>✓</sup> Judicial court  
 16 commissioner shall administer to them an oath or affirmation which 'shall be  
 17 substantially in the following form:

18           You do solemnly swear (affirm) that you will diligently inquire and determine  
 19 on behalf of this state when, and in what manner and by what means, the person  
 20 known as . . . . . who is now dead came to his or her death and that you will return  
 21 a true verdict thereon according to your knowledge, according to the evidence  
 22 presented and according to the instructions given to you by the . . . . (judge) (judicial<sup>✓</sup>  
 23 court comtiissioner).

History: History: 1983 a. 279; Sup. Ct. Order, No. 96-08, filed I-16-97, eff. 7-1-97.

24           **SECTION 118.** 979.05 (5) of the statutes is amended to read:

1           979.05 (5) Prior to the submission of evidence to the jury, the judge or judicial ✓  
2 court commissioner may instruct the jury on its duties and on the substantive law  
3 regarding the issues which may be inquired into before the jury. The district attorney  
4 may, at any time during the course of the inquest, make statements to the jury  
5 relating to procedural or evidentiary matters he or she and the judge or judicial ✓ court  
6 commissioner deem appropriate. Section 972.12 applies to the conduct of the inquest  
7 jury.

History: History: 1983 a. 279; Sup. Ct. Order, No. 96-08, filed 1-16-97, eff. 7-1-97.

8           **SECTION 119.** 979.05 (6) of the statutes is amended to read:

9           979.05 (6) The judge or judicial ✓ court commissioner conducting the inquest  
10 may order that proceedings be secret if the district attorney so requests or concurs.

History: History: 1983 a. 279, Sup. Ct Order, No. 96-08, filed 1-16-97, eff. 7-1-97.

11           **SECTION 120.** 979.06 (1) of the statutes is amended to read:

12           979.06 (1) The judge or judicial ✓ court commissioner may issue subpoenas for  
13 witnesses at the request of the coroner or medical examiner and shall issue  
14 subpoenas for witnesses requested by the district attorney. Subpoenas are  
15 returnable at the time and place stated therein. Persons who are served with a  
16 subpoena may be compelled to attend proceedings in the manner provided in s.  
17 885.12.

History: History: 1983 a. 279.

18           **SECTION 121.** 979.06 (2) of the statutes is amended to read:

19           979.06 (2) The judge or judicial ✓ court commissioner conducting the inquest and  
20 the district attorney may require by subpoena the attendance of one or more expert  
21 witnesses, including physicians, surgeons and pathologists, for the purposes of  
22 conducting an examination of the body and all relevant and material scientific and  
23 medical tests connected with the examination and testifying as to the results of the

1 examination and tests. The expert witnesses so subpoenaed shall receive reasonable  
2 fees determined by the district attorney and the judge or judicial court commissioner  
3 conducting the inquest.

History: History: 1983 a. 279.

4 **SECTION 122.** 979.06 (3) of the statutes is amended to read:

5 979.06 (3) Any witness examined at an inquest may have counsel present  
6 during the examination of that witness. The counsel may not examine or  
7 cross-examine his or her client, cross-examine or call other witnesses or argue  
8 before the judge or judicial court commissioner holding the inquest.

History: History: 1983 a. 279.

9 **SECTION 123.** 979.06 (4) (intro.) of the statutes is amended to read:

10 979.06 (4) (intro.) The judge or judicial court commissioner shall administer  
11 an oath or affirmation to each witness which shall be substantially in the following  
12 form:

History: History: 1983 a. 279.

13 **SECTION 124.** 979.06 (5) of the statutes is amended to read:

14 979.06 (5) The judge or Judicial court commissioner conducting the inquest  
15 shall cause the testimony given by all witnesses to be reduced to writing or recorded  
16 and may employ stenographers to take and transcribe all of the testimony. The  
17 stenographer shall receive reimbursement at a reasonable rate for each appearance  
18 and transcription at rates in accordance with the customary charges in the area for  
19 similar services.

History: History: 1983 a. 279.

20 **SECTION 125.** 979.08 (1) of the statutes is amended to read:

21 979.08 (1) When the evidence is concluded and the testimony closed, the judge  
22 or judicial court commissioner shall instruct the jury on its duties and on the  
23 substantive law regarding the issues inquired into before the jury. The district

1 attorney shall prepare a written set of appropriate requested instructions and shall  
2 submit them to the judge or judicial court commissioner who, together with the  
3 district attorney, shall compile the final set of instructions which shall be given. The  
4 instructions shall include those criminal offenses for which the judge or judicial court  
5 commissioner believes a reasonable jury might return a verdict based upon a finding  
6 of probable cause.

History: History: 1983 a. 279.

7 **SECTION 126.** 979.08 (3) (intro.) of the statutes is amended to read:

8 979.08 (3) (intro.) The jury shall retire to consider its verdict after hearing all  
9 of the testimony and evidence, making all necessary inquiries and having been  
10 instructed in the law. The judge or judicial court commissioner shall provide the jury  
11 with one complete set of written instructions providing the substantive law to be  
12 applied to the issues to be decided. The verdict shall be in a form which permits the  
13 following findings:

History: History: 1983 a. 279.

14 **SECTION 127.** 979.08 (6) of the statutes is amended to read:

15 979.08 (6) Any verdict so rendered, after being validated and signed by the  
16 judge or judicial court commissioner, together with the record of the inquest, shall  
17 be delivered to the district attorney for consideration. After considering the verdict  
18 and record, the district attorney may deliver the entire inquest record or any part  
19 thereof to the coroner or medical examiner for safekeeping.

History: History: 1983 a. 279.

20 **SECTION 128.** 979.08 (7) of the statutes is amended to read:

21 979.08 (7) The record of a secret inquest proceeding shall not be open for  
22 inspection unless so ordered by the judge or judicial court commissioner conducting  
23 the inquest upon petition by the district attorney.

History: History: 1983 a. 279.

1           **SECTION 129.** 979.09 of the statutes is amended to read:

2           **979.09 Burial of body.** If any judge or judicial court commissioner conducts  
3 an inquest as to the death of a stranger or of a person whose identity is unknown or  
4 whose body is unclaimed or if the district attorney determines that no inquest into  
5 the death of such a person is necessary and the circuit judge has not ordered an  
6 inquest under s. 979.04 (2), the coroner or medical examiner shall cause the body to  
7 be decently buried or cremated and shall certify to all the charges incurred in taking  
8 any inquest by him or her and to the expenses of burial or cremation of the dead body.  
9 The charges and expenses shall be audited by the county board of the proper county  
10 and paid out of the county treasury.

History: History: 1983 a. 279 s. 14; Stats. 1983 s. 979.09.

11           **SECTION 130. Initial applicability.**

12           (1) This act first applies to actions commenced on the effective date of this  
13 subsection.

14           **SECTION 131. Effective date.**

15           (1) This act takes effect on January 1, 1999.

16

(END)

Insert 33-2

Section #. 813.125 (1) (intro.) of the statutes ~~is~~ amended to read:

(title) DEFINITIONS §(a) "Harassment"

813.125 (1) ~~DEFINITION~~ (intro.) In this section, ~~"harassment"~~ means any of the following:

History: 1983 a. 336; 1991 a. 39, 194; 1995 a. 71, 306.

SEC.# RN; 813.125 (1) (a) <sup>and</sup> (b); 813.125 (1) (a) 1. <sup>and</sup> 2.

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-5132/P1dn

RPN:.....

↑  
jlg

I am not sure if this draft meets your intent. Please review the draft carefully,

I would prefer to use "circuit court commissioner" instead of "judicial court commissioner" to avoid any confusion with municipal court commissioners created in 1997 Wisconsin Act 27 and because "judicial court" is redundant, but chapter 75 of the supreme court rules appears to make that impossible. (r)

There are about 400<sup>✓</sup> places in the statutes where "court commissioner" is used. I reviewed each of those sites to determine if the term had to be changed to "circuit court commissioner," "supplemental court commissioner" or "municipal court commissioner" or some combination of these. If this bill is attempting to clarify and simplify the responsibilities, appointment and supervision of court commissioners, perhaps the terms "family court commissioner", "juvenile court commissioner" and "probate court commissioner" should be discontinued?

This draft makes extensive use of references to the revised supreme court rules, which may be difficult for the public to obtain. You may want to consider codifying the supreme court rules used extensively in this draft to avoid that problem.

Robert P. Nelson  
Senior Legislative Attorney  
267-7511



**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-5132/P1dn

RPN:jlg:km

Wednesday, April 15, 1998

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