



2021 ASSEMBLY BILL 355

May 27, 2021 - Introduced by Representatives HEBL, ANDERSON, BALDEH, CONLEY, EMERSON, NEUBAUER, POPE, S. RODRIGUEZ, SPREITZER, STUBBS and SUBECK, cosponsored by Senators RINGHAND, ROYS, ERPENBACH and JOHNSON. Referred to Committee on Judiciary.

1 **AN ACT** *to amend* 757.54 (1); and *to create* 757.54 (3) of the statutes; **relating**
2 **to:** prohibiting destruction of records and evidence.

Analysis by the Legislative Reference Bureau

Under current law, retention and disposal of court records and exhibits is generally determined by the supreme court by rule, with one exception. The exception states that DNA specimens in criminal actions and juvenile delinquency proceedings must be kept until any person who is taken into custody as a result of the action or proceeding has been released.

This bill adds a second exception to the general rule. The bill prohibits a circuit, municipal, or appeals court judge or a supreme court justice for whom a motion for recusal or request for judicial substitution has been filed in an action or proceeding from ordering the destruction of evidence or court records of the action or proceeding.

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

3 **SECTION 1.** 757.54 (1) of the statutes is amended to read:
4 757.54 (1) Except as provided in ~~sub.~~ subs. (2) and (3), the retention and
5 disposal of all court records and exhibits in any civil or criminal action or proceeding

ASSEMBLY BILL 355**SECTION 1**

1 or probate proceeding of any nature in a court of record shall be determined by the
2 supreme court by rule.

3 **SECTION 2.** 757.54 (3) of the statutes is created to read:

4 757.54 (3) (a) In this subsection, “judge” has the meaning given in s. 757.19 (1).

5 (b) No judge presiding in an action or proceeding for whom a motion for recusal
6 or a request for judicial substitution has been filed by a party to the action or
7 proceeding may do any of the following:

8 1. Order the destruction of evidence gathered for or offered in the action or
9 proceeding.

10 2. Order the destruction of court records of or exhibits prepared for the action
11 or proceeding, including copies of the records or exhibits.

12 (END)