

SUPREME COURT OF WISCONSIN

NOTICE

This order is subject to further editing and modification. The final version will appear in the bound volume of the official reports.

No. 21-03

**In re Amendment of Wis. Stat.
§§ 753.24, 753.26, 757.12,
757.14, and 757.70 Relating
to the Location of Court**

FILED**APR 21, 2022**

Sheila T. Reiff
Clerk of Supreme Court
Madison, WI

On August 31, 2021, the Honorable Randy R. Koschnick, Director of State Courts, filed this rule petition asking the court to amend Wis. Stat. §§ 753.24, 753.26, 757.12, 757.14, and 757.70 relating to the location of court.¹ Consistent with standard practice, the court voted to solicit written comment. Letters were sent to interested persons on December 3, 2021. Comments in support of the petition were received from Cheryl Furstace Daniels, President, State Bar of Wisconsin on behalf of the Board of Governors; the Honorable Maureen D. Boyle, Chief Judge, District 10, Barron County Circuit Court; and

¹ On December 11, 2020, the Director filed rule petition 20-09 relating to location of court and use of videoconferencing technology. The court conducted a public hearing on April 7, 2021, via videoconference. On June 1, 2021, following extensive consideration, the court returned the petition to the petitioner, without action. See S. Ct. Order 20-09, issued June 1, 2021, at <https://www.wicourts.gov/srules/archive/2009.htm>. In the petition now pending, the Director elected to bring a subset of the changes proposed in rule petition 20-09 back to this court for our consideration.

Carlo Esqueda, Dane County Clerk of Circuit Court, Chair, Legislative Committee of the Wisconsin Clerks of Circuit Court Association. Comments opposing or expressing concerns about the petition were received from Kelli S. Thompson, Wisconsin State Public Defender; Jonas B. Bednarek, Marcus J. Berghahn, Patrick J. Fiedler, Stephen P. Hurley, David E. Saperstein, Sarah E. Schuchardt and Catherine E. White of Hurley Burish, S.C. The petitioners filed a request to amend the petition on January 25, 2022.

The court conducted a public hearing on Tuesday, February 15, 2022. The Honorable Randy Koschnick, Director of State Courts, and the Honorable Jason Rossell, Kenosha County Circuit Court, presented the petition to the court. The following speakers spoke in opposition to the rule petition: Attorney Kate Drury, Wisconsin State Public Defender; and Jonas B. Bednarek, Partner, Hurley Burish, S.C.

The court discussed the petition at a closed administrative conference and voted to grant the petition. Therefore,

IT IS ORDERED that, effective July 1, 2022:

SECTION 1. 753.24 (2m) of the statutes is created to read:

753.24 (2m) Court may be held with the judge and any participants appearing from a remote location using telephone or videoconferencing technology subject to ss. 885.50 to 885.64 and constitutional requirements.

SECTION 2. 753.26 of the statutes is repealed.

SECTION 3. 757.12 of the statutes is amended to read:

757.12 Adjournment to another ~~place~~ location. Whenever it is deemed unsafe or inexpedient, by reason of war, pestilence, public

~~calamity, or other compelling factors limiting or preventing access to the courthouse, to hold any court at the time and place appointed therefor the justices or judges of the court may ~~appoint any other place within the same county and any other time for holding court~~ order court to be held at an alternative location in Wisconsin, including in another county, on a temporary basis. Every such order shall be made in writing. Notice of such orders shall be provided by email to the Chief Justice, the Chief Judge of the judicial district, the Director of State Courts, the State Bar of Wisconsin, and the local bar association. Any such orders shall be placed on the Wisconsin State Courts website, the county website, and the door of the courthouse, if practicable. All court proceedings moved to another location shall have the same force and effect as if held at the original location. Bench warrants shall not be issued for failure to appear without a finding that the party received notice of the date, time and location of the proceeding. All proceedings in the court may be continued at adjourned times and places and be of the same force and effect as if the court had continued its sessions at the place it was held before the adjournment. Every such appointment shall be made by an order in writing, signed by the justices or judges making the appointment, and shall be published as a class 1 notice, under ch. 985, or in such other manner as is required in the order.~~

SECTION 4. 757.14 of the statutes is amended to read:

757.14 Sittings, public. The sittings of every court shall be public and every citizen may freely attend the same, including proceedings held by telephone or videoconferencing technology, except

~~if otherwise expressly provided by law on the examination of persons charged with crime; provided, that when in any court a cause of a scandalous or obscene nature is on trial the presiding judge or justice may exclude from the room where the court is sitting all minors not necessarily present as parties or witnesses. If the content of the proceeding is deemed graphic or obscene, the judge or justice may exclude from the courtroom all minors not present as parties or witnesses. The court may utilize electronic means to allow the public the ability to hear and see, in real time, all proceedings in a manner as similar as practicable to being present in the courtroom.~~

SECTION 5. 757.70 (1) of the statutes is amended to read:

757.70 (1) All proceedings and hearings before a court commissioner, including proceedings held by telephone or videoconferencing technology, shall be public and open to every citizen, except juvenile proceedings or when it is necessary for the court in which the action or proceeding is pending to impose by order restrictions under its inherent power to conduct proceedings in camera.

SECTION 6. 757.70 (2) of the statutes is amended to read:

757.70 (2) All hearings before a circuit or supplemental court commissioner shall be held in ~~the county courthouse or other court facilities provided by law~~ accordance with s. 753.24. This provision does not apply to nontestimonial proceedings, supplementary hearings on the present financial status of a debtor under s. 757.675 (2) (h) or depositions taken before a circuit or supplemental court commissioner.

IT IS FURTHER ORDERED that notice of the above amendments be given by a single publication of a copy of this order in the official publications designated in SCR 80.01, including the official publishers' online databases, and on the Wisconsin court system's web site. The State Bar of Wisconsin shall provide notice of this order.

Dated at Madison, Wisconsin, this 21st day of April, 2022.

BY THE COURT:

Sheila T. Reiff
Clerk of Supreme Court

