



REGISTER IN PROBATE OFFICE

WAUKESHA COUNTY

Sally Mohr Lunde
Register in Probate/Probate Registrar
Direct Line: (262)548-7472
Email: sally.lunde@wicourts.gov

515 W. Moreland Blvd., Room C-380
Waukesha, WI 53188
Phone: (262) 548-7468
Fax: (262) 896-8397

August 29, 2012

Sent via E-mail

Ms. Susan Gray
Wisconsin Supreme Court
Office of the Director of State Courts
16 East State Capitol
P O Box 1688
Madison, WI 53701-1688
Susan.gray@wicourts.gov

FILED

AUG 31 2012

**CLERK OF SUPREME COURT
OF WISCONSIN**

RE: Supreme Court Rules Petition12-05 addressing proposed changes to SCR 72.01(32), 72.01(33), 72.01(34), 72.02(38) {printed as 71.02(38) in petition}, 72.01(39), and 72.01(40)

Dear Ms. Gray:

I am writing to you to request reconsideration of the proposed changes to the record retention timeframe for guardianship and mental health records and case files as presented in Supreme Court Rules Petition12-05. The current rule provides for retention of guardianship and mental health records for 7 years after termination of the case or entry of final order. The proposed rule proposes to increase this retention period to 75 years after termination if there was a firearm restriction ordered in the case. I feel the extension of the retention period for these cases will be unduly burdensome for the clerks assigned to maintain custody and retain these records.

Currently, most circuit courts in the state are experiencing very tight budgets. There is an ongoing need to do more with fewer staff and smaller resources. In my county we no longer are able to afford to store files off site. All our court files are currently stored in our offices, where space is now at a premium. We currently shred our guardianship cases on a weekly basis as they hit the 7 year retention time. If we will be required to store these files for 75 years, we will have a significant problem with storage space and will need to look at eliminating services to find ways to shift funds in our already tight budget to pay for storage somewhere.

The assumed solution to storage of the files is the scanning of those files which allows for the destruction of the paper files according to SCR 72.03(3). While this is a logical solution, it does not take into consideration an ever decreasing court staff and continuing budget limitations. Many circuit courts in the past were able to pay companies to handle the microfilming of case files. In my county that budget item was eliminated several years ago. The burden of preserving records has shifted onto my staff, which already has a full workload. We currently scan our records with long retention times

(probate proceedings and wills) but do not have the resources to scan the cases with shorter retention periods. We have found that the time expended to scan files greatly exceeds the time saved by using the electronic copies of the scanned files. In addition, the guardianship and mental health cases are only accessible to a limited group of persons so that the review of files is generally minimal. The scanning of these files will result in a significant amount of staff time expended for a limited benefit to the county or to those interested persons to the file.

In addition to these concerns, I would like to point out that the majority of the guardianship files for an adult are terminated due to the death of the ward. Very few terminate due to the ward's regaining competency. The SCR rule as proposed would require the retention or scanning of many files where there would not be any person to petition for removal of the firearms restriction. This proposal seems unduly burdensome on the clerks assigned to maintain custody and retain these records.

Therefore, I respectfully ask consideration to changing the proposed rules to shorten the proposed 75 year retention time to a much shorter time, or in the alternative, to changing the proposed rules to minimize the number cases and records that would be subject to the 75 year retention period as follows:

For all guardianship matters (Ch. 54 and Ch. 55 and Ch. 880, 2003 stats.): "7 years after termination of guardianship due to the death of the ward or where a firearm restriction was not ordered in the case, or 75 years after termination of guardianship in all other circumstances where there was a firearm restriction ordered in the case."

For all mental health matters (Ch. 51): "7 years after termination of the mental health case due to the death of the person in need or where a firearm restriction was not ordered in the case, or 75 years after termination of the mental health case in all other circumstances where there was a firearm restriction ordered in the case."

Thank you for your consideration of this proposed change to Supreme Court Rules Petition 12-05. The following persons have asked to join in this requested change:

Jenell Anderson, Register in Probate, Polk County
Joshua Blakely, Register in Probate, Racine County
Theresa Gagas, Register in Probate, Portage County
Rebecca Gramse, Register in Probate, Waushara County
Sara Henke, Register in Probate, Winnebago County
Denise Kist, Register in Probate, Washington County
Ardell Klaske, Register in Probate, Fond du Lac County

Sincerely,

Sally Mohr Lunde
Register in Probate, Waukesha County

cc. Amy Franzen, President of WRIPA