
**In re Matter of the creation of Supreme Court
Rules 60.001, 60.002, and 60.003 relating to
a Judicial Code Review Committee**

**PETITION
13-17**

This petition comes before the Wisconsin Supreme Court upon the petition of Chief Justice Shirley S. Abrahamson of the Wisconsin Supreme Court to create supreme court rules relating to a committee to review the Wisconsin Code of Judicial Conduct, Supreme Court Rule Chapter 60, every ten years.

I am submitting a revised petition, as explained in the accompanying memorandum in support, to avoid any further unnecessary debate about or vote premised on whether my original petition 12-11 is in correct petition format. The text of this petition that varies from my original petition 12-11 is set forth below in italics.

The current Wisconsin Judicial Code of Conduct is based on the 1990 ABA Model Code of Judicial Conduct. In 2007 the American Bar Association (ABA) issued a revised Model Code of Judicial Conduct. In 2010 the ABA amended the 2007 model code. As a result of the ABA's 2007 revision, twenty eight states (28) have approved a revised judicial code, and fourteen (14) states have established committees to review local judicial codes.¹

In the June 25, 2008 open administrative conference, the supreme court approved the creation of a committee to review the Wisconsin Code of Judicial Conduct. In the fall

¹ ABA Center for Professional Responsibility, State Adoption of Revised Model Code of Judicial Conduct, available at http://www.americanbar.org/groups/professional_responsibility/resources/judicial_ethics_regulation/map.html (last updated 12/07/2013); List of States Adopting Amendments Based Upon the 2007 ABA Model Code of Judicial Conduct http://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/chronological_status_judicial_code.authcheckdam.pdf (last updated 12/07/2013).

of 2008 the supreme court issued a solicitation for persons interested in serving on a review committee. In May 2009 the supreme court approved the following mission statement for a review committee:

The mission of the Committee to Study the Code of Judicial Conduct is to conduct a comprehensive review of the Wisconsin Code of Judicial Conduct including examining the American Bar Association's 2007 Model Code of Judicial Conduct as revised, other proposals for changes to Wisconsin's code, and developing law and codes of other states, and if warranted, to make recommendations for modifications to the Wisconsin Code of Judicial Conduct.

At that time, Dean Joseph Kearney of the Marquette Law School expressed a willingness to assist in recruiting a faculty member to serve as a reporter.

Following further discussion at an open administrative conference on April 28, 2010, a 4-3 majority of the supreme court² voted not to proceed with the decision to create a committee to review the code of judicial conduct.

My original petition 12-11 was filed on December 27, 2012. The supreme court discussed the rule petition at an open rules conference on April 12, 2013 and directed Commissioner Julie Anne Rich to work with an intern over the summer to prepare a comparison of the Wisconsin Code of Judicial Conduct and the 2007 ABA Model Code of Judicial Conduct. Commissioner Rich's work was discussed at an open rules conference on December 6, 2013. At this conference at least two justices asserted that the original rule petition 12-11 was not in the proper form. Four justices, Justice David T. Prosser, Justice Patience D. Roggensack, Justice Annette K. Ziegler, and Justice Michael J. Gableman voted against the motion to appoint a judicial review committee.

² Justices Prosser, Roggensack, Ziegler, and Gableman voted in favor of the motion not to proceed; Chief Justice Abrahamson and Justices Bradley and Crooks voted against the motion.

As stated above, I am submitting this revised petition, as explained in the accompanying memorandum in support, to avoid any further unnecessary debate about or vote premised on whether my original petition 12-11 is in correct petition format.

This revised petition proposes to create a Judicial Code Review Committee.

SECTION 1. *SCR 60.001 is created to read:*

*SCR 60.001. **Review of the Code of Judicial Conduct.** Every ten years beginning January 2014, the supreme court shall appoint a Judicial Code Review Committee representing a diverse group, including persons from the legal profession, judiciary, business, academic institutions, the public, and community organizations active in governmental affairs to consider whether modification of Supreme Court Rule Chapter 60 is needed. This provision does not bar the supreme court from considering proposals for revision of Supreme Court Rule Chapter 60 at any time pursuant to its rulemaking procedures.*

SECTION 2. *SCR 60.002 is created to read:*

*SCR 60.002. **Purpose.** The mission of a Judicial Code Review Committee is to conduct a comprehensive review of the Wisconsin Code of Judicial Conduct including examining the American Bar Association's Model Code of Judicial Conduct as revised, other proposals for changes to Wisconsin's code, and developing law and codes of other states, and if warranted, to make recommendations for modifications to the Wisconsin Code of Judicial Conduct.*

SECTION 3. *SCR 60.003 is created to read:*

SCR 60.003. Judicial Code Review Committee.

- (1) The supreme court shall *on the effective date of this rule* create ~~at the~~ 2014 Judicial Code Review Committee consisting of the following 24 persons representing a diverse group from the legal profession, *judiciary*, business, academic institutions, and community organizations active in governmental affairs:
 - (a) Three members selected by the dean of the University of Wisconsin law school: one lawyer, one non-lawyer, and one law professor.
 - (b) Three members selected by the dean of the Marquette University law school: one lawyer, one non-lawyer, and one law professor.
 - (c) Three members selected by the board of governors of the State Bar of Wisconsin: two lawyers and one non-lawyer.
 - (d) Two judge members and one court commissioner member of the Judicial Conduct Advisory Committee provided in SCR Ch. 60 Appendix, chosen by the court by lot.
 - (e) One non-lawyer member selected by the board of directors of the Wisconsin League of Women Voters.
 - (f) One non-lawyer member selected by the Wisconsin state governing board of Common Cause.
 - (g) One non-lawyer member of the board of directors of the Wisconsin Chamber of Commerce Executives, chosen by the court by lot.
 - (h) One lawyer member selected by the officers of the Wisconsin Association for Justice.

- (i) One district attorney or assistant district attorney selected by the executive board of the Wisconsin District Attorney's Association.
 - (j) One lawyer member selected by the state public defender.
 - (k) One member selected by the board of directors of the Wisconsin Defense Counsel.
 - (l) The Executive Director of the Wisconsin Judicial Commission.
 - (m) Three former members, one judge, one lawyer and one non-lawyer, of the Wisconsin Judicial Commission, chosen by the court by lot.
 - (n) The Division Administrator of the Ethics Division of the Wisconsin Government Accountability Board, or his or her designee.
- (2) The first meeting of the Committee shall be called by the chief justice. The Committee shall select a chairperson.
- (3) In the interest of providing full and fair consideration of these important public policy issues, the Committee shall solicit comments from the bench, bar, and public. The Committee may hold public hearings as it deems necessary. The Committee shall consider the state's fiscal condition and keep expenditures at a minimum, so far as consistent with conducting a comprehensive review.
- (4) The Committee may post on the court system's Web site information related to its proceedings including proposals and solicitations for comments.
- (5) The members of the Committee shall serve without compensation but shall be entitled to reimbursement for travel expenses necessarily incurred in carrying out their committee responsibilities, pursuant to rules and procedures applicable to court employees.

(6) The Committee shall continue to assist the court in the court's review of its report.

The terms of the Committee shall expire upon the conclusion of the project at the direction of the court.

(7) *The Director of State Courts' Office shall provide administrative support and legal assistance for the Committee and reporters.*

(8) The Chief Justice will communicate to the designated organizations regarding membership.

(9) The Chief Justice will work with the deans of the two law schools to recruit reporters for the Committee.

(10) The Committee shall submit its report to the supreme court within 18 months of date of the first meeting of the Committee. The Committee's recommendations for changes, if any, shall be filed in the form of a rule petition to the supreme court.

Respectfully submitted this ___ day of December, 2013.

Shirley S. Abrahamson
Chief Justice
Wisconsin Supreme Court