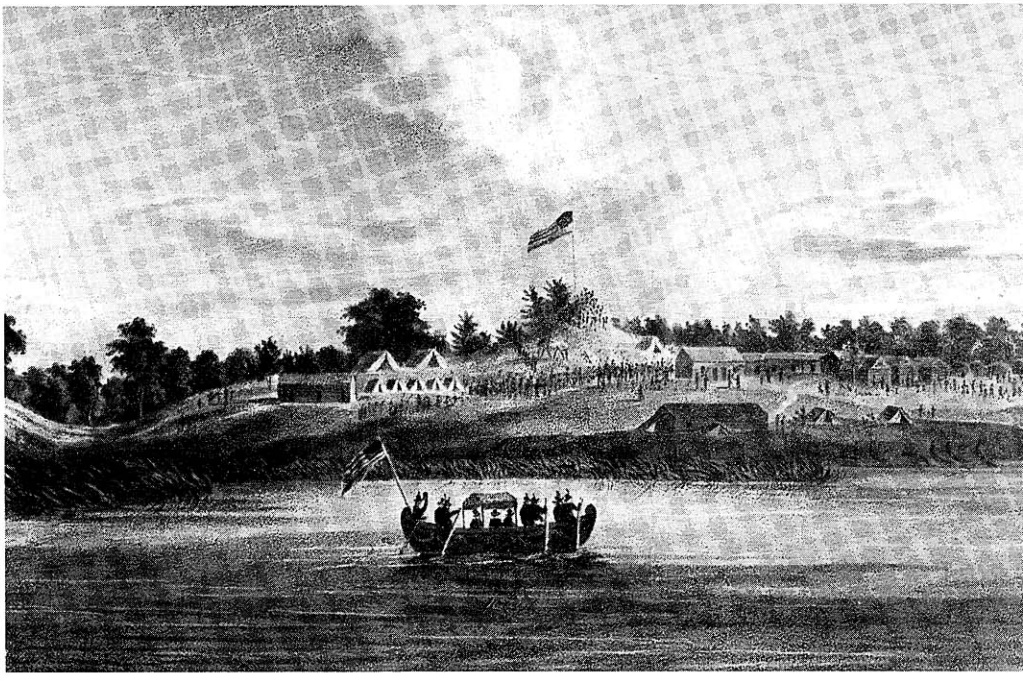
Judicial Branch

The judicial branch: profile of the judicial branch, summary of Supreme Court decisions, description of Supreme Court, court system, and judicial service agencies



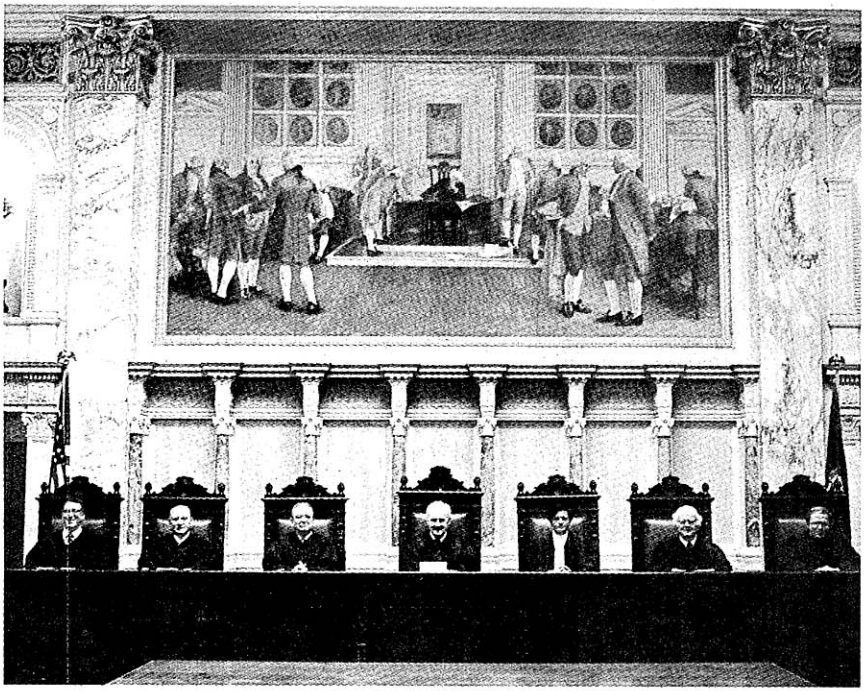
"A View of the Butte des Morts Treaty Ground", from a handcolored lithograph in The Aboriginal Portfolio *by J.O. Lewis, 1835.* *Courtesy Iconographic Collections, State Historical Society of Wisconsin (WHi(X3)18228).*

WISCONSIN SUPREME COURT[1]

Name	Supreme Court Justice Since	1st Elected Term Began	Term Expires July 31
Nathan S. Heffernan, Chief Justice	1964[2]	Jan. 1966	1995
Roland B. Day	1974[2]	Jan. 1977	1996
Shirley S. Abrahamson	1976[2]	Aug. 1979	1999
William G. Callow	1978	Jan. 1978	1997
Donald W. Steinmetz	1980	Aug. 1980	1990
Louis J. Ceci	1982[2]	Aug. 1984	1994
William A. Bablitch	1983	Aug. 1983	1993

[1]Pursuant to Section 26 of Article IV of the Wisconsin Constitution and Section 20.923 (2) of the Wisconsin Statutes, the current salary for chief justice is $85,336 and for justices is $76,859.

[2]Initially appointed by the governor.



The Wisconsin Supreme Court in session. From left to right are Justices Louis J. Ceci, William G. Callow, Roland B. Day; Chief Justice Nathan S. Heffernan; and Justices Shirley S. Abrahamson, Donald W. Steinmetz and William A. Bablitch. The mural on the wall behind the dais is the Albert Herter painting, The Signing of the Constitution (photo courtesy of Wisconsin Supreme Court).

JUDICIAL BRANCH

A PROFILE OF THE JUDICIAL BRANCH

Introducing the Court System. For most of us, the court system is probably the least understood branch of government. Though our attention may be drawn to the courts by news accounts of controversial cases and by dramatic portrayals of court proceedings on television, our personal involvement with the courts is likely to be limited to brief exposures, such as jury duty, a traffic violation, a divorce proceeding or the settlement of a deceased relative's estate. From these experiences, we may conclude that the judicial system is a complicated maze, filled with obscure procedures and language which even lawyers and judges have trouble understanding.

Actually a tremendous variety and volume of business is transacted daily in the court system. At one time or another, almost every aspect of life is touched by the courts. It is well-known that the courts are required to try persons accused of violating criminal law and that conviction in the trial court may result in punishment by fine or imprisonment or both. The courts must also decide civil disputes between private citizens, ranging from the routine collection of an overdue charge account to the complex adjudication of an antitrust case involving many millions of dollars and months, or even years, of costly litigation. In addition, the courts act as referees between citizens and their government by determining the permissible limits of governmental power and the extent of an individual's rights and responsibilities.

A court system which strives for fairness and justice must be able to discover the truth and then settle disputes based on the appropriate rules of law. These rules are derived from a variety of sources, including the state and federal constitutions, legislative acts, and administrative rules, as well as the "common law", which reflects society's customs and experience as expressed in previous court decisions. This body of law is constantly changing to meet the needs of an increasingly complex world. The courts have the task of determining the delicate balance between the flexibility and the stability needed to protect the fundamental principles of our constitutional system.

How well the judicial branch performs the tasks assigned it depends a great deal on its organization and structure. Because many Wisconsin citizens, lawyers, legislators and judges complained that the state's judicial process had become expensive and unwieldy, the court system was substantially reorganized, first in 1959, then in 1977-78.

History of the Court System. The basic powers and framework of the court system in Wisconsin were laid out in Article VII of the Constitution when Wisconsin became a state in 1848. Judicial power was vested in a supreme court, circuit courts, courts of probate and justices of the peace. The legislature was granted power to establish inferior courts and municipal courts and determine their jurisdiction, subject to certain limitations.

The 1848 constitution divided the state into 5 judicial circuit districts. The 5 judges who presided over the circuit courts were to meet at least once a year at Madison as a "Supreme Court" until the legislature established a separate court. The Wisconsin Supreme Court was instituted in 1853 with 3 members — one elected as chief justice and the other 2 as associate justices. In 1877, a constitutional amendment increased the number of associate justices to 4. An 1889 amendment prescribed the current practice under which all court members are designated as justices, and the justice with the longest continuous service may preside as chief justice. Since 1903, the constitution has required a court of 7 members.

Over the years, the legislature created a large number of courts with varying types of jurisdiction. As a result of numerous special laws, there was no uniformity among the counties. There was overlapping jurisdiction between the different types of courts in a single county, and procedure in the various courts was not the same. Furthermore, a number of special courts sprang up in heavily urbanized areas where the judicial burden was the greatest, such as Milwaukee County. In addition, many municipalities had established police justice courts for enforcement of local ordinances, and there were some 1,800 justice of the peace courts, many of them inactive.

Reorganization of the Courts in 1959. Confronted with this confused pattern, the 1951 Legislature directed the Judicial Council to recommend a court reorganization plan. Based on the council's report, the legislature enacted Chapter 315, Laws of 1959, effective January 1962, which provided for the initial reorganization of the court system. This plan was refined in subsequent sessions.

Under the 1959 law, the jurisdiction of the Supreme Court and circuit courts remained unchanged. The most significant feature of the reorganization was the abolition of the special statutory courts (municipal, district, superior, civil and small claims). In addition, a uniform system of jurisdiction and procedure was established for all county courts.

Another important change was to create the machinery for smoother administration of the court system. One of the problems under the old system was the unevenness of the caseload — heavy in some locations and light in others. Sometimes, too, the workload was not evenly distributed between the judges of the same jurisdiction. To correct this, the chief justice of the Supreme Court was authorized to assign circuit and county judges to serve temporarily in either type of court, as needed. The 1961 Legislature took a further step to assist the chief justice in these assignments by establishing the Administrative Director of Courts (Chapter 261, Laws of 1961). This position has since been redefined by the Supreme Court and named the Director of State Courts.

The final step was the April 1966 ratification of 2 constitutional amendments which abolished the justices of the peace and permitted municipal courts. Thus, when the 1959 reorganization was completed, the court system consisted of a Supreme Court, circuit courts, county courts and municipal courts.

Court Reorganization in 1977-78. The wording of Article VII, Section 2, of the Constitution, which outlines the current structure of the state courts, was created by an amendment ratified in April 1977:

> The judicial power of this state shall be vested in a unified court system consisting of one supreme court, a court of appeals, a circuit court, such trial courts of general uniform statewide jurisdiction as the legislature may create by law, and a municipal court if authorized by the legislature under section 14.

In the June 1978, the legislature implemented the constitutional amendments by enacting Chapter 449, Laws of 1977, which provides the state with a "single level" trial court system composed of circuit courts, a court of appeals and revised authority for the municipal courts.

The Court System Today. The judicial branch is headed by a Supreme Court of 7 justices, each elected statewide for a term of 10 years. The Supreme Court is primarily an appellate court and is known as Wisconsin's "court of last resort", but it also has original jurisdiction whereby it can be the first court to hear a case. Original jurisdiction is limited to a small number of cases of statewide concern. There are no appeals to the Supreme Court as a matter of right. The court has the discretion to determine which appeals it will hear.

The Court of Appeals was created on August 1, 1978. The state is divided into 4 appellate districts and the "court chambers", or principal offices for the districts, are located in Madison, Milwaukee, Waukesha and Wausau. The Madison district has 4 judges and the others have 3 judges each, making a statewide total of 13 appellate judges, each elected for a 6-year term.

The Court of Appeals judges sit in panels of 3 to hear cases, except for small claims, municipal ordinance violations, traffic violations and mental health, juvenile and misdemeanor cases which may be heard by a single judge, unless a panel is requested.

Under the reorganization, the circuit court became the "single level" trial court for the state. Over a transitional period, county courts were abolished. At the conclusion of each county judge's term, that particular county court was abolished and a branch of the circuit court was established in its place. Circuit court boundaries were revised so that each county became a circuit with the exception of the following 3 combined county circuits: Buffalo-Pepin, Shawano-Menominee and Forest-Florence.

This reorganization resulted in 69 circuits. In the more populous counties, a circuit may have several branches with one judge assigned to each branch. Since June 1, 1987, there is a combined total of 197 circuits and branches and the same number of circuit judgeships. To oversee the circuit court system, there are 10 judicial administration districts with the chief judge of each district appointed by the Supreme Court.

About 210 municipal courts have been created by cities, villages and towns. A municipal court is not a court of record, and its jurisdiction is limited.

The Selection and Qualification of Judges. Supreme Court justices and judges of the Court of Appeals and the circuit courts are elected on a nonpartisan basis in April. According to the Constitution, justices and judges must have been licensed to practice law in Wisconsin for at least 5 years prior to election or appointment. When 3 or more candidates file nomination papers for the same office, a primary election must be held prior to the April election.

The 7 Supreme Court justices are elected at large; the judges of the Court of Appeals and circuit judges are elected in their respective districts. A vacancy in the office of justice or judge is filled by the governor until a successor is elected. When an election is held to fill a vacancy, the judge is elected for a full term, rather than the remainder of the unexpired term.

Municipal judges are also elected in April, but candidates for these offices need not be attorneys to qualify. These judgeships are usually not full-time positions.

Judicial Agencies Assist the Courts. The courts are assisted by numerous state agencies. The Supreme Court appoints a Director of State Courts, the State Law Librarian and staff, the Board of Attorneys Professional Competence, the Board of Attorneys Professional Responsibility, and the Judicial Education Committee. Other agencies assisting the judicial branch include the Judicial Commission, Judicial Council, the Judicial Conference, and the State Bar of Wisconsin.

The shared primary concern of these agencies is to improve the organization, operation, administration and procedures of the state judicial system. They also function to promote professional standards, judicial ethics, and legal research and reform.

The Court Process in Wisconsin. It should be remembered that there is both a state court system and a federal court system. The state courts generally adjudicate cases pertaining to state laws, although the federal government may give state courts jurisdiction over specified federal questions. The following description explains the process in a typical case in a state court.

Civil Cases. There are 2 types of cases handled by the courts — civil and criminal. Generally, civil actions involve individual claims in which a person seeks a remedy for some wrong done by another. For example, if a person has been injured in an automobile accident, the complaining party ("plaintiff") may sue the offending party ("defendant") to compel payment for the injuries.

In a typical civil case, an action is brought by the plaintiff by filing a summons and a complaint with the circuit court. The defendant is served with copies of these documents, and the summons directs the defendant to respond by serving an answer upon the plaintiff's attorney. Various pretrial proceedings may be required, such as pleadings, motions, pretrial conferences and discovery, but if no settlement is reached, a trial ensues. Trial by jury is a right granted by both the state and federal constitutions, but if both parties consent, the trial may be conducted by the court without a jury. In a civil case, the jury consists of 6 persons unless a greater number, not to exceed 12, is requested. Five-sixths of the jurors must agree on the verdict. Based on the verdict, the court enters a judgment, which grants relief to the party for whom the judgment is rendered.

A final judgment can usually be appealed from the circuit court to the Court of Appeals, but a decision by the Court of Appeals can be reviewed only if the Supreme Court grants a petition for review. In some cases, a matter may be reviewed by the Supreme Court prior to an appellate decision because of a petition by one of the parties; because the Supreme Court decides on its own initiative to review the case directly; or because the Court of Appeals finds it needs guidance on a legal question and requests Supreme Court review under a procedure known as "certification". These 3 types of bypass of the Court of Appeals can occur only at the discretion of the Supreme Court.

Criminal Cases. In Wisconsin, a crime is conduct prohibited by state law and punishable by fine or imprisonment or both. Crimes are of 2 types — misdemeanors and felonies. A felony is punishable by imprisonment in the state prison; all other crimes are misdemeanors. Usually, misdemeanors have a maximum sentence of one year or less.

Because a crime is an offense against the state, the action against the defendant is brought by the state, not by the individual who might be the victim. A typical criminal action begins when the district attorney files a criminal complaint with the circuit judge, stating the essential facts constituting the offense charged. The defendant may or may not be arrested at that time. If the defendant has not yet been arrested, the judge or a court commissioner may then issue a warrant

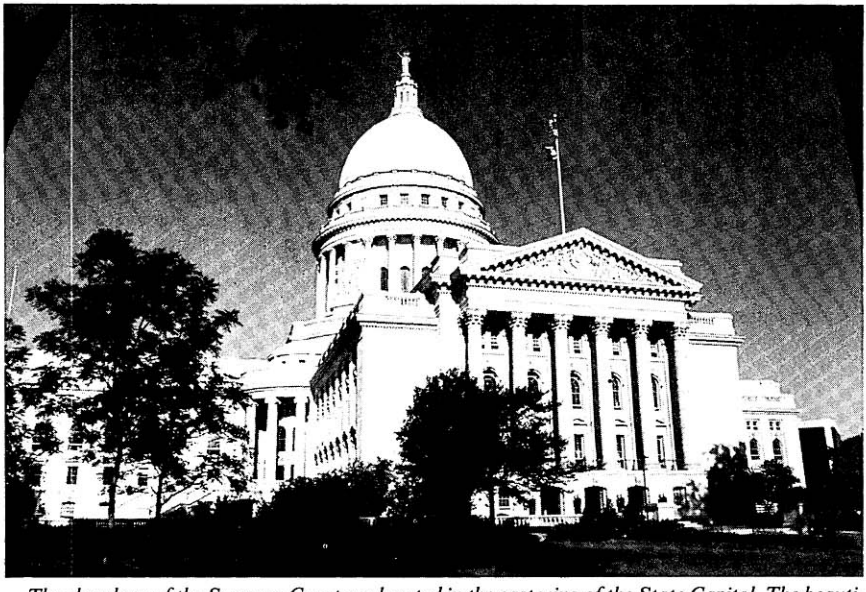
in the case of a felony or a summons in the case of a misdemeanor. A law enforcement officer must then serve a copy of the warrant or summons on an individual and make the arrest.

Once the defendant is in custody, he or she is taken before a circuit judge or court commissioner and informed of the charges and the right to be represented by a lawyer. Bail may be set at this time or later. If the charge is for a misdemeanor, a trial date is set. In the case of a felony charge, the defendant has a right to a preliminary examination, which is a hearing before the court to determine whether the state has probable cause to charge the individual. When the defendant does not waive the preliminary examination, the judge or court commissioner transfers the action to a circuit court for the hearing. If probable cause is found, the person is bound over for trial.

The district attorney, an elected county official who acts as an agent of the state in prosecuting the case, files an information with the court based on the preliminary examination. At this point, the arraignment takes place, at which the defendant enters a plea ("guilty", "not guilty", "no contest", or "not guilty by reason of mental disease or defect"). The circuit judge presides over the trial.

Unlike the procedure in civil cases, criminal trials are tried by a jury of 12, unless the defendant waives a jury trial or there is agreement for a lesser number of jurors. The jury considers the evidence which has been presented at the trial, determines the facts and, applying the instruction given by the circuit judge, renders a verdict of guilty or not guilty. If the jury determines a verdict of guilty, a judgment of conviction is entered and the court determines the sentence. The court may order a pre-sentence investigation before pronouncing sentence.

In a criminal case, the jury's verdict must be unanimous. If not, the defendant is exonerated, and cannot be tried again for the same charge, based on provisions in both the federal and state constitutions which prevent double jeopardy.



The chambers of the Supreme Court are located in the east wing of the State Capitol. The beautiful and impressive building, rebuilt in the early 1900s following a disastrous fire, will undergo a complete interior renovation beginning in the fall of 1989. The renovation, which includes air conditioning of the entire structure, will take about 10 years to complete (photo courtesy of Michael Stark, Department of Administration).

SUMMARY OF SIGNIFICANT DECISIONS OF THE SUPREME COURT AND COURT OF APPEALS OF WISCONSIN

October 1986 — September 1988

Robert Nelson and Bruce Feustel
LEGISLATIVE REFERENCE BUREAU

Wisconsin has 2 courts that handle appeals: the Court of Appeals and the Supreme Court. Appellate cases are first heard by the Court of Appeals, unless the Supreme Court decides to bypass that court and review the matter directly. There are no appeals to the Supreme Court as a matter of right, but a litigant may petition the Supreme Court to review an appellate decision or bypass the Court of Appeals.

The following summaries provide examples of the issues facing these appellate courts. Especially important are cases where: the courts are breaking new ground; the litigants represent strong competing policy interests; the facts are unusual; the public is greatly affected by the outcome; or there is a strong division of opinion among the justices or judges. These summaries of appellate decisions do not provide a complete report of the findings for the cases listed. Rather, they show the variety of problems that the Wisconsin Court of Appeals and the Wisconsin Supreme Court have confronted.

CONSTITUTIONAL LAW

Governor's Veto Authority

Governors of this state have had the constitutional power to approve appropriation bills in whole or in part since a constitutional amendment was approved in 1930. In *Wisconsin Senate v. Thompson*, 144 Wis. 2d 429 (1988), the Supreme Court was asked to rule on whether some of Governor Tommy Thompson's partial vetoes of 1987 Senate Bill 100 (the state's executive budget bill) exceeded that constitutional power. Members of the legislature filed suit asking the court to declare that 37 partial vetoes violated the governor's constitutional power. They argued that the governor could not veto individual letters, words or digits.

After reviewing all of the previous Wisconsin cases that interpreted the governor's veto power, the court reaffirmed that a partial veto is constitutional if what remains is a complete, entire and workable law.

The court based its conclusion on the long-recognized distinction between Wisconsin's "partial veto" and other states' "item veto". In *State ex rel. Wisconsin Telephone Co. v. Henry*, 218 Wis. 302, (1935), the court said:

> If, in conferring partial veto power, by the amendment of sec. 10, art. V, Wisconsin constitution, in 1930, it was intended to give the executive such power only in respect to an item or part of an item in an appropriation bill, then why was not some such term as either "item" or "part of an item" embodied in that amendment, as was theretofore done in similar constitutional provisions in so many other states, instead of using the plain and unambiguous term "part" and "part of the bill objected to" without any words qualifying or limiting the well-known meaning and scope of the word "part"?

In this case, the court, using the dictionary definition of "part", concluded that what was vetoed by the governor did not have to be a separable item. It held that the governor's partial veto could be sustained if, after the partial veto, the bill passed the "complete, entire and workable law" test. The vetoed portion need not involve an appropriation item, but it must be contained in an appropriation bill. The Supreme Court has agreed with that decision each time the issue has been before it.

The plaintiffs in the *Senate v. Thompson* case argued that the sole reason for the governor's veto power is to prevent logrolling. However, the court contended that Wisconsin has never recognized any prohibition against submitting omnibus bills dealing with a broad range of topics. "By definition, such 'logrolling' is implicitly acceptable in the budget bill." (page 445) Instead, the court held:

> The partial veto in this state was adopted not to prevent the crime of logrolling, but more importantly, to make it easier for the governor to exercise what this court has recognized to be his "quasi-legislative" role, and to be a pivotal part of the "omnibus" budget bill process. (page 446)

The court found that the partial veto power can have either an affirmative or a negative purpose, and that, as long as the approved parts taken as a whole make a workable law, the partial veto is constitutional. Each of the vetoes challenged in this suit met that requirement.

This decision explicitly recognizes one restriction to the governor's partial veto authority that was only implicitly recognized in the past. The court said that the governor's partial veto cannot create a totally new, unrelated or nongermane provision.

Justice Bablitch, joined by Justices Abrahamson and Steinmetz, dissented in part and concurred in part. The legislative history, said Bablitch, shows that one major reason for the constitutional amendment was to prevent the improper joinder of legislation into one bill. He stated:

> Thus, to argue, as does the majority, that the partial veto power was adopted to facilitate the governor's participation in the omnibus budget process, rather than to curb the practice of legislative logrolling, ... mischaracterizes the objective of the amendment, the governor's function, and our past cases interpreting the amendment. (page 470)

Bablitch argued that vetoing individual letters does not help prevent legislative logrolling. Equally important, he commented, giving the governor power to create new words by vetoing letters violates the constitutionally-required separation of the legislative and executive branches. He noted that allowing partial vetoes of individual letters gives the governor extraordinary legislative power, surpassing that of the legislature, because the newly-created wording needs the vote of only one-third plus one of a single house to become law.

Separation of Powers — Criminal Complaints

Both the U.S. Constitution and the Wisconsin Constitution provide grants of authority to the executive, legislative and judicial branches of government. This framework provides for a separation of powers and a system of checks and balances in which no one branch of government dominates the others. Any attempt to transfer substantial power from one branch to another violates the separation of powers doctrine and is unconstitutional.

In *Unnamed Petitioners v. Connors*, 136 Wis. 2d 118 (1987), the issue presented was whether a statute improperly allowed the judicial branch of government to encroach on executive branch power. Under Wisconsin law, district attorneys have the authority to file a criminal complaint to start a criminal prosecution. If the district attorney refuses or is unavailable to file a criminal complaint, Section 968.02 (3) of the Wisconsin Statutes allows a circuit judge to issue a criminal complaint after a hearing and upon the judge's finding that there is probable cause to believe the offense occurred.

The case in question, which was widely publicized, involved 2 professional football players who were alleged to have assaulted a nightclub dancer. The district attorney investigated the allegation and declined to file a criminal complaint, basing his decision on problems of proof, rather than disbelief that a crime had occurred. The alleged victim then sought to have a circuit judge independently decide, under Section 968.02 (3) of the Wisconsin Statutes, whether a complaint should be filed. The case came before the Wisconsin Supreme Court when the petitioners sought a writ of prohibition to stop the circuit judge from holding the hearing authorized by that statute.

In deciding whether this statute improperly permits the judicial branch to exercise an executive branch power, the court examined the role and functions of the district attorney. District attorneys perform an executive branch function when prosecuting criminal offenses. A district attorney may use his or her discretion in deciding what crime or crimes to charge or whether to prosecute at all. A district attorney does not have the time or resources to prosecute all persons who have violated the law. Citing an earlier case, the court noted that:

> For a limited time [the prosecutor] is the trustee of the public's law enforcement conscience. It is his duty to refrain from instituting criminal charges unconscionably or unnecessarily. In the exercise of that public conscience he is neither the puppet of the law enforcement authorities nor of the courts. (page 127)

The court also looked at the nature of the authority the statute gives to judges. Rather than merely granting a reviewing function, the law gives the judge the authority to make a new determination as to whether a complaint should be issued. The court held the law unconstitutional because, it said, a judge acting under Section 968.02 (3) "merely becomes a prosecutor and .... ousts the executive officer from his constitutional duties." It also found that an alternative remedy existed because the judge has statutory authority to appoint an acting district attorney if the district attorney is unavailable.

Two justices, dissenting from the majority opinion, viewed the authority given to the district attorney under the Wisconsin Constitution to be quite limited. They felt the majority had not given the statute the proper presumption of constitutionality nor had they given fair consideration to the question of severability whereby only a portion of the statute would have to be declared unconstitutional.

Separation of Powers — Children's Code

In another case involving the possible judicial encroachment upon executive power, *In Interest of J.A.*, 138 Wis. 2d 483 (1987), a juvenile court placed a 16-year-old girl in the custody of the county social services agency at the request of the girl's parents because they were unable to prevent her from having a sexual relationship with a 32-year-old man. The county agency placed the girl in a foster home suggested by the girl. Instead of removing the girl when the agency learned that the foster home was run by the sister of the girl's boyfriend, the agency told the foster family to keep the girl away from the boyfriend. The foster family later requested removal of the girl because they were unable to meet that requirement. The agency then placed the girl in another foster home. She ran away, was apprehended and appeared before the same judge. At the hearing, the judge expressed his displeasure with the county's handling of the case. He ordered the agency to prepare a report on the foster care program. The agency refused and appealed the order.

The county agency argued that the circuit court order violated the separation of powers required by the Wisconsin Constitution. The Supreme Court noted that the circuit judge was assigned to juvenile matters by the chief district judge. The court analyzed the relationship between the circuit court and Chapter 48 of the Wisconsin Statutes (the Children's Code). That code gives the court "exclusive original jurisdiction" over children in need of protection or services and grants it authority to issue orders concerning juvenile matters. The code requires the circuit court to make appropriate foster placements and to supervise those placements. Section 48.08 (1) of the Wisconsin Statutes specifically requires the county agency to make any investigations the judge directs and to submit written reports to the judge.

Based on this analysis, the Supreme Court held that the legislature wanted the courts to play a major role in fulfilling the broad goals of the Children's Code. Those statutes require a judge to make inquiries if the judge discovers a problem in the provision of services to children. The county agency must assist the judge in determining the exact nature and extent of the problem. This includes the preparation of reports and the conducting of investigations.

To find that the separation of powers has been violated, said the court, one branch of government's exercise of power must "unduly burden or substantially interfere with the other branch's exercise of its power." The Supreme Court held that the circuit court's request for information that the county agency is required to maintain under the Children's Code is not an undue burden. Nor does that request substantially interfere with the exercise of power by the county agency. The court concluded that there was no violation of the separation of powers doctrine.

Free Speech

Does Wisconsin's constitutional protection of free speech require a private shopping mall to be available for freedom of speech purposes? In *Jacobs v. Major*, 139 Wis. 2d 492 (1987), the Supreme Court balanced the right of freedom of speech against the right of private control over private property.

Richard Jacobs, along with other owners of a private shopping mall, obtained a court order prohibiting a dance group from performing an anti-nuclear dance in the mall. The dance group performed the dance despite the order, whereupon the mall owners sought injunctive and monetary relief.

The first clause of Article I, Section 3, of the Wisconsin Constitution provides that "[e]very person may freely speak, write and publish his sentiments on all subjects...." This clause, said the court, clearly establishes a right against state interference of free speech. The second clause of that section reads: "....no laws shall be passed to restrain or abridge the right of free speech...." Again, said the court, this clause clearly prohibits the state from restraining or abridging the right of free speech. The court cited numerous Wisconsin cases holding that the declaration of rights of the Wisconsin Constitution establishes limitations on state action only. The court also cited cases holding that the constitutional declaration of rights does not protect private persons from private interference. After reviewing the historical background of the establishment of the state constitution, the court concluded that the constitutional declaration of rights was drafted as a reaction to the dire experience with England. This declaration was added to protect the rights of people from government interference.

In this case, the court held denial of the dance group's right of expression was not the result of state interference, but was based on the action of the mall owners, a group of private individuals. The court rejected the argument that state action is present by virtue of the court restraining order. The clear and unambiguous language of the Wisconsin Constitution, the court concluded, prohibits state action only.

The dance group argued that the modern shopping mall is the same as a town square for purposes of public demonstrations. The court rejected that argument, saying, "[T]here cannot be any serious claim that the Madison community in which the Capital and state government are located, as well as the largest part of the state university system, does not provide public areas for free expression." Malls, the court continued, do not have an essentially public purpose. They exist primarily to provide profit for the owners of the mall and the stores in the mall.

Justice Abrahamson, joined by Justices Heffernan and Bablitch, wrote an opinion that dissented in part from the majority opinion. She said that the first clause of Article I, Section 3, was drafted to grant every person the right to speak freely. The second clause prohibits the state from interfering with that right. These 2 clauses are independent, however, and the first provides an affirmative right to free speech valid against all the world, not just the state.

Justice Abrahamson also argued that the mall is an open community center where a great deal of community activity occurs. As such, it is a "public forum" of the sort previously provided by the government. Allowing the owners of these new community centers to control speech presents a threat similar to the threat identified by the framers of the Wisconsin Constitution. To be true to the framers' intent, the court should hold that the Constitution protects the freedom to speak in these new "public forums".

Justice Bablitch also wrote a separate opinion emphasizing his concern that government is not the only group that can substantially infringe on individual liberties. The use of economic power by a private group can pose as great a threat to individual liberty. Justice Heffernan joined in that opinion.

Harassment

Harassment, like pornography, is hard to define precisely, but people "know it when they see it." In 1984, the Wisconsin Legislature created both a harassment statute and a harassment injunction statute. The latter statute provides a procedure allowing a judge to order a person "to cease or avoid the harassment of another person." In *Bachowski v. Salamone*, 139 Wis. 2d 397 (1987), the Supreme Court was asked to decide if the harassment injunction statute is vague or overbroad.

The *Bachowski* case involved a dispute between neighbors. John Bachowski brought a harassment injunction petition in circuit court claiming that his neighbor, Margaret Salamone, repeatedly yelled at him and members of his family. She claimed the yelling was in response to his obscene gestures and comments. The circuit court judge acknowledged that she might have a separate claim against him, but in regard to his injunction request, the judge noted that "she has no right to stand out on her driveway and yell at another neighbor no matter what the relationship between the parties is." The judge granted the injunction enjoining Salamone from harassing or contacting Bachowski.

Salamone subsequently appealed the decision. The Court of Appeals affirmed the judge's order. The case came before the Supreme Court on a petition for review. Among other issues,

the court addressed challenges to the constitutionality of the statute because of alleged vagueness and overbreadth.

A statute must be clear enough to give law-abiding people sufficient notice of what is prohibited. The danger posed by a vague law is that it will be enforced arbitrarily. The court noted, however, that laws do not have to have the precision of mathematics or science. In this case, the statute defines harassment as "[e]ngaging in a course of conduct or repeatedly committing acts which harass or intimidate another person and which serve no legitimate purpose." The court found this clearly went beyond "bothersome or annoying behavior." The statute covers repeated acts or a course of conduct and the acts must "serve no legitimate purpose." Finally, the harassment must involve intentional and not inadvertent conduct. The court traced some of the legislative history of both the Wisconsin statute and a substantially similar New York statute. The court concluded that:

> It is clear from sec. 813.125, Stats., that chronic, deliberate behavior, with no legitimate purpose designed to harass another person is proscribed by the statute. We conclude that the legislature has defined the conduct proscribed by sec. 813.125 with sufficient specificity to meet constitutional requirements with respect to vagueness. (page 411)

Challenging a statute as being overbroad means that the law prohibits constitutionally protected behavior that the state may not regulate. Noting some of the earlier findings, the court cited both the intent requirement and the fact that the prohibited acts had to serve no legitimate purpose. The court found that the statute was "not directed at the exposition of ideas but at oppressing repetitive behavior which invades another's privacy interests in an intolerable manner." The overbreadth challenge was rejected and the court upheld the constitutionality of the statute. The decision was, however, reversed on other grounds.

Administration of Drugs

In *State ex. rel. Jones v. Gerhardstein*, 141 Wis. 2d 710 (1987), patients at the Milwaukee County Mental Health Complex brought a class action to stop the forced administration of psychotropic drugs to competent, involuntarily committed psychiatric patients. The plaintiffs argued that this forced administration of drugs in a nonemergency situation violated the equal protection clauses of the U.S. and Wisconsin Constitutions.

Prior to reaching the constitutional issue, the court had to decide if the case was moot because the 2 named plaintiffs had been released before the court's decision. The Supreme Court reviewed the mootness doctrine, saying a case is moot when a determination is sought that can have no practical effect on a controversy. However, an exception may be made if an issue has great public importance and is capable and likely of repetition but evades review. An issue can evade review if a court cannot act in time to have a practical effect on the rights of the parties. The court declared this action would fit the mootness exception since it involved an issue of statewide public importance and it evaded review because the administration of the drugs often ended before an individual could seek and receive judicial review.

The court then proceeded to rule on the constitutional issue. The court agreed with the plaintiff that equal protection clauses protect a person from unwarranted personal contact. The court held that the forced administration of psychotropic drugs infringes upon the right to bodily autonomy. The court, after reviewing expert testimony, also found that those drugs may cause actual harm due to adverse side effects.

The court recognized that if a person is incompetent to make a decision about medical treatment, the state is authorized to compel the type of treatment that will best meet the patient's needs. However, involuntary commitment does not mean a person is automatically incompetent to make a decision about medical treatment. According to the court, under Section 51.59 (1) of the Wisconsin Statutes, no person is deemed incompetent to exercise any civil right solely by reason of commitment. The court stated that forcing involuntarily committed patients to take drugs when they have not been found incompetent creates a class of patients based on no rational classification scheme, since patients who voluntarily commit themselves are not subject to forced administration. Therefore, forced administration of psychotropic drugs violates a patient's right to equal protection under the U.S. Constitution and Wisconsin Constitution. The court granted the plaintiffs' request to stop the administration of such drugs.

STATUTORY INTERPRETATION

Open Meeting Law

Wisconsin's open meeting law requires all governmental bodies to hold meetings in places accessible and open to all members of the public. The issue raised by *State ex. rel. Newspapers v. Showers*, 135 Wis. 2d 77 (1987), was what constitutes a meeting of a governmental body. Four members of an 11-member public commission met in a closed meeting to discuss the commission's capital budget. The full commission had held numerous unsuccessful public meetings regarding the budget. After the closed meeting the commission met once again and approved a budget. The court was asked to decide if this 4-member meeting violated the open meeting law.

The court found that the statutory definition of "meeting" was ambiguous. The definition was capable of being understood by a reasonably well-informed person in more than one way. Given this ambiguity, the court looked to the legislative history, purpose, and context of the open meeting law to determine the word's meaning. The purpose of the open meeting law, as stated in the statutory declaration of policy, Section 19.81 (1) of the Wisconsin Statutes, is to provide the public with "the fullest and most complete information regarding the affairs of government as is compatible with the conduct of governmental business."

Justice Bablitch, writing the opinion for the court, was a state senator at the time the events discussed in his opinion took place. Justice Bablitch said that 4 months before the legislature created the open meeting law involved in this case, the Supreme Court issued a decision in *State ex. rel. Lynch v. Conta*, 71 Wis. 2d 662 (1976), interpreting the old open meeting law. The Dane County district attorney initiated that case in response to a complaint from a state senator regarding private meetings held by some members of the Joint Committee on Finance. Those committee members met in private to discuss the pending budget bill.

The Supreme Court held in *Conta* that those private meetings did not violate the then-existing open meeting law because of the specific exception for partisan caucuses of legislators. The court did provide guidance regarding the application of the law. It said the law would apply when a committee quorum met or when the meeting in question involved a sufficient number of committee members to block passage of a proposal. The court said the law also applied to separate meetings of 2 or more groups, although each group had less than a quorum, if the multiple groups agreed to act and vote uniformly. The law did not apply, the court noted, if only 2 members met, since such a small number would have neither the power to pass, nor the power to block proposals. Dissenting in that case, Justice Hansen argued that the law should apply to any meeting of less than half of the members if that number had the ability to control the outcome of the full committee.

Justice Bablitch argued that the events of the *Conta* case had significant impact on the drafting of the current open meeting law which was created 4 months later. He recalled that it was continually cited during the legislative debate. From that historical analysis, Justice Bablitch concluded that the legislature specifically rejected either the "number of members" or the "purpose" as the single trigger for operation of the law. He recalled that the legislature also rejected the concepts of a "quorum" or "more than one-half the members" in defining a meeting subject to the open meeting law.

Bablitch found that the legislature required a "meeting" under the new open meeting law to have 2 components. The members meeting must engage in governmental business, and the number of members present must be sufficient to determine the parent body's course of action. In the present case, the parties had conceded that the meeting was called for the purpose of discussing the pending budget, thus fulfilling the first criterion. The budget proposal discussed required a two-thirds majority of the commission to pass, so a meeting of 4 of the 11-member commission was sufficient to defeat any proposal regarding the budget. This met the second criterion. Based on both criteria, the court held that the meeting in question was subject to the open meeting law.

Public Official — Right to Legal Representation

The courts are often asked to determine if a public official is entitled to payment of legal fees by his employer. In *Crawford v. City of Ashland*, 134 Wis. 2d 369 (Ct. App. 1986), a police officer, while on duty, shot and killed an injured seagull to eliminate a traffic hazard. The Department of Natural Resources issued the officer 3 forfeiture citations. The officer requested legal assistance from his employer to defend against the forfeiture action, but was denied. He hired his own

attorney. The trial court dismissed the charges because it concluded that the officer was acting within the scope of his employment when he shot the bird. The officer asked his employer to pay his legal fees, was denied, and sued for payment.

Section 895.46 (1) of the Wisconsin Statutes requires a city to pay the legal fees of an officer proceeded against because of acts committed while carrying out duties within the scope of employment. The Appellate Court said the statute was plain and unambiguous on its face, so the court must follow the statute's plain meaning. The statute, said the court, does not limit the type of civil case where legal fees are reimbursable.

In response to an attorney general's opinion saying no legal fees are reimbursable in a forfeiture action, the court said:

> The attorney general's narrow construction of sec. 895.46 (1) is contrary to the policy underlying the statute. The statute is designed to indemnify public employes from the cost of actions brought against them based upon acts performed in the scope of their duties and for a governmental unit's benefit. By providing this protection the statute encourages public employes to perform their duties without hesitation or fear that they will be personally liable. (page 377)

Because the officer was acting within the scope of his duties and pursued the claim for reimbursement in a proper and timely manner, the court required the city to pay his legal fees.

Liability — Discovery of an Injury

Wisconsin law requires an injured party to commence a lawsuit within a limited time after an injury. This time limit prevents persons from bringing fraudulent or stale claims. Otherwise, a person sued would have a difficult time finding and presenting the evidence necessary to support his or her position.

The Supreme Court, in *Hansen v. A. H. Robins Co.*, 113 Wis. 2d 550 (1983), established a delayed discovery rule providing that a tort claim "shall accrue on the date the injury is discovered or with reasonable diligence should be discovered, whichever occurs first."

In *Hammer v. Hammer*, 142 Wis. 2d 257 (Ct. App. 1987), the court was asked to determine when discovery occurs in a situation where a woman is sexually abused by her father throughout her youth. In that case, the father sexually abused his daughter and warned her never to tell anyone of the abuse. At age 15, she told her mother. However, her mother and father denied the conduct. The father convinced her that she was not injured by the conduct. He also convinced her siblings that she caused the family's problems. The woman sought legal and psychological advice when her father attempted to obtain legal custody of her minor sister. In an affidavit to the circuit court, her therapist said the woman was traumatized by the abuse and isolation and was unable to reveal and explore the damage she had suffered. He further stated that, as a normal post-traumatic stress reaction, she had developed denial and suppression coping mechanisms. The likelihood of her father abusing her younger sister broke down those barriers.

The Court of Appeals found that the woman was misinformed and intentionally misled as to the significance and cause of the abuse. A cause of action for incestuous abuse, said the court, will not begin until the abused victim discovers, or in the exercise of reasonable diligence should have discovered, the fact and cause of the injury. In this case, that point may not have been until the therapy began. The court held that the policy reasons for the statute of limitations are not appropriate in incestuous abuse cases. Protecting the abusing parent at the expense of the abused child would be an intolerable perversion of justice. The Court of Appeals concluded that the delayed discovery rule applied and remanded the case to the trial court to determine when the woman discovered the abuse.

Foreseeable Injuries

Negligence law requires a party to exercise that degree of care exercised by a reasonable individual in similar circumstances. Failure to exercise that care may result in liability for any injury that is a foreseeable result of that failure. In *Schuster v. Altenberg*, 144 Wis. 2d 223 (1988), the Supreme Court was asked to determine if this theory applies to third persons injured by a patient due to a psychiatrist's negligence. In this case, Robert Schuster's daughter was permanently injured in a single-car automobile accident caused by Gwendolyn Schuster, his wife, a patient of Barry Altenberg, M.D. The plaintiff alleged that the psychiatrist was negligent in his diagnosis and treatment due to his failure to warn the family of the patient's condition and to seek commitment of the patient.

Psychiatrists, the court said, should be compelled to meet the accepted standard of care established by other practitioners. The court, quoting *Shier v. Freedman*, 58 Wis. 2d 269 (1973), said a medical practitioner is negligent if that practitioner fails to exercise the degree of care and skill exercised by the average practitioner in the class to which he or she belongs. Based on that case, the court said that if the patient's condition and behavior could have been corrected or controlled by proper diagnosis and treatment, the failure to do so may constitute negligence. Failure to warn a patient of the risks associated with a condition, failing to advise the patient of appropriate conduct, and failing to advise the patient of the side effects of medication may also be negligence. The complaint alleged those failures, so the plaintiff's action may continue.

In the interest of judicial economy, the court reviewed the additional claims made in the complaint. The claims included allegations that the doctor failed to warn the patient's family of her condition and its dangerous implications, and failed to seek commitment of the patient. This case, said the court, is similar to those in which other professionals, such as attorneys and architects, have been found liable for failure to warn third parties. As stated in *A. E. Investment v. Link Builders, Inc.*, 62 Wis. 2d 479 (1974):

> The very essence of a profession is that the services are rendered with the understanding that the duties of the profession cannot be undertaken on behalf of a client without an awareness and a responsibility to the public welfare. (page 235)

Negligent parties, said the court, are liable for all foreseeable results of their acts except as limited by policy factors. To establish whether harm is foreseeable, psychiatrists must be held to the same degree of care and skill exercised by the average practitioner in the class to which he or she belongs.

Altenberg asked the court to make exceptions to liability for psychiatrists, but the court rejected that request, concluding:

> These arguments, including confidentiality, unpredictability of dangerousness of patients, concerns that patients are assured the least restrictive treatment and that imposition of liability will discourage physicians from treating dangerous patients, present significant issues of public policy. However, neither the possible impact that limited intrusions upon confidentiality might have upon psychotherapist-patient relations, nor the potential impact that the imposition of liability may have upon the medical community with respect to treatment decisions, warrants the certain preclusion of recovery in all cases by patients and by the victims of dangerous patients whose harm has resulted directly from the negligence of a psychotherapist. (page 262)

The court concluded that no public policy justification for holding that psychiatrists will never be held liable for failure to warn third parties or to commit a patient.

Justice Steinmetz, joined by Justices Abrahamson and Bablitch, wrote a concurring opinion agreeing that the defendant might be liable for negligence in diagnosing and treating the patient. However, he felt the court had insufficient facts to substantiate the broad pronouncements made by the majority, and he would have found for the psychiatrist. He said liability of the psychiatrist should depend on intentional behavior of the patient, not mere negligence.

Owner's Responsibilities

The Supreme Court, in *Wagner v. Continental Casualty Co.*, 143 Wis. 2d 379 (1988), was asked to clarify the responsibilities a property owner has to employes hired by an independent contractor.

In this case, Harold and Randy Klein, the owners of a factory, hired a contractor to demolish it. The contractor had no recent experience in demolishing buildings. The Klein brothers (called principal employer in the opinion) hired the contractor without investigating his background or qualifications. The contractor hired inexperienced workers for the job. An accident occurred and a worker fell through the roof of the building. Although the independent contractor paid worker's compensation to the injured worker, the worker also sued the Klein brothers, alleging negligence in their selection of the contractor.

The court first considered the relationship between the payment of worker's compensation and liability. The court decided that payment of worker's compensation by the independent contractor did not create statutory immunity to suit for the principal employer. It created immunity only for the employer who paid.

The court then reviewed the question of whether a principal employer is liable for a worker's injuries when the employer fails to investigate qualifications of an independent contractor. The court noted that Wisconsin follows the general rule that a principal employer is not liable for the torts of independent contractors. The court cited Wisconsin cases holding a principal employer liable only for injuries caused by that person's affirmative acts of negligence. Under Wisconsin law, said the court, an act of omission by a principal employer is not an affirmative act giving rise to liability. The court held that the failure to investigate the contractor's ability to perform the job is an act of omission, not an affirmative act. Therefore, the principal employer was not liable under that theory of law.

The court was also asked to determine if liability could attach because the employe was performing work that is inherently dangerous. The court differentiated between work that is "inherently dangerous unless special precautions are taken" and work that is "extrahazardous". The court defined "extrahazardous" work as work where the risk of harm remains unreasonably high no matter how many precautions are taken, such as transporting nuclear wastes and working with toxic gases. The court concluded that the work involved in this case was not "extrahazardous".

After reviewing cases from other states, the court decided that principal employers should not be liable to a contractor's employes for the torts of that contractor in cases where the work is "inherently dangerous unless special precautions are taken." The court said:

> We are persuaded by the policy considerations advanced in these cases and today join the majority of jurisdictions that refuse to hold a principal employer vicariously liable to the independent contractor's employe for the torts of the contractor while performing inherently dangerous work. We are convinced that the vicarious liability exception cannot apply to employes of independent contractors involved in work that is inherently dangerous without special precautions. Any other holding would circumvent the bedrock principles of Wisconsin worker's compensation law. (pages 400-401)

This ruling, said the court, does not apply to a principal employer's liability where the work is extrahazardous, but only to cases involving work that is inherently dangerous unless special precautions are taken.

Justice Abrahamson, joined by Justices Heffernan and Bablitch, dissented, saying the majority incorrectly relied on cases that dealt with vicarious liability of a principal employer. In vicarious liability cases, the contractor, not the principal employer, is negligent. Here, the principal employer was negligent in selecting the contractor. An injured employe of the contractor should be able to obtain damages if the principal employer is negligent. The majority opinion that holds the opposite view, said Abrahamson, violates prior case law and the policies behind the tort and worker's compensation laws.

Punitive Damages

Compensatory damages are awarded to a party to compensate for injuries incurred as the result of another person's action or inaction. Punitive damages are awarded to an injured party to punish the other party for outrageous conduct. In *Tucker v. Marcus*, 142 Wis. 2d 425 (1988), the Supreme Court reviewed the relationship of these 2 types of damages under Wisconsin's comparative negligence law.

In this case, a boy's estate sued a pool owner for compensatory and punitive damages caused by the boy's drowning. The jury found the boy 70 percent negligent, his adult supervisor 20 percent negligent and the pool owner 10 percent negligent. The jury awarded both compensatory and punitive damages. The circuit court, acting under the state's comparative negligence law, Section 895.045 of the Wisconsin Statutes, awarded punitive damages but denied any compensatory damages.

The parties asked the Supreme Court to decide the relationship between punitive and compensatory damages. The court noted that the legislature is presumed to adopt the court's interpretation of a statute if the statute is reenacted. Prior to the reenactment of Section 895.045 of the statutes, court cases had held that punitive damages were not damages for negligence, so the Supreme Court maintained this interpretation after the statute was reenacted. Based on these cases, the court concluded that the language in Section 895.045 of the statutes relating to contributory negligence, was not intended to include punitive damages. The court noted that punitive

damages are intended to punish and deter outrageous conduct. This is quite different from the purpose of the law of negligence which is to equitably distribute loss based on fault. Including punitive damages within the comparative negligence law would require a reduction in punitive damages proportionate to comparative negligence. This, the court said, would require a mathematical formula for punitive damages, something the court has repeatedly rejected. For these reasons, the court rejected including punitive damages under the comparative negligence law.

The court also decided that punitive damages may not be awarded unless an award of actual or compensatory damages is made to the party. To do otherwise, argued the court, would entail the adoption of the doctrine of pure comparative negligence for punitive damages. This would mean that the person who was most at fault would be allowed to profit from his own wrong by recovering punitive damages.

Justice Heffernan, joined by Justices Abrahamson and Bablitch, dissented. He agreed with the majority that punitive damages are not included in the comparative negligence statute, but he argued that an award of punitive damages should be possible if actual damage exists, regardless of whether an award for that damage is granted by a court. The majority, Heffernan said, relied on cases that did not reach that issue. Heffernan contended that punitive damages arise from a different rationale than compensatory damages and should be considered separately. He felt that, if the defendant's behavior is so outrageous as to result in an award of punitive damages, and the plaintiff suffers actual damage due to that behavior, an award of punitive damages is appropriate.

CRIMINAL CASES

Automobile Searches

Both the U.S. Constitution and the Wisconsin Constitution prohibit unreasonable searches and seizures and provide that warrants may be issued only upon probable cause. Generally, warrantless searches are unreasonable unless there is some particular reason why a warrant could not be obtained. In *State v. Tomkins*, 144 Wis. 2d 116 (1988), the Wisconsin Supreme Court gave a definitive statement on the status of searches of automobiles.

The *Tomkins* case involved a warrantless search of a motor vehicle. The defendant was charged with possession (with intent to deliver) of cocaine. He sought to have the trial court suppress the evidence obtained during the search of a truck. The trial court denied the motion and the defendant subsequently pled guilty. The defendant appealed the suppression ruling, but the Court of Appeals affirmed the conviction.

On review, the key issue for the Supreme Court was the standard applicable in automobile search cases. The court found that there was probable cause to search the truck, and the question was whether the state had to show anything other than probable cause to justify the search.

The majority cited more recent cases put less emphasis on requiring exigent circumstances in which the need for immediate action justified warrantless automobile searches. The court noted that:

> These cases also indicate an increasing reliance by the court upon the proposition that the right against unreasonable searches and seizures derives not so much from the need to protect property rights, but rather from the expectation of privacy. Privacy in one's home, office, or other place of business is contrasted with the visual opportunity that a vehicle offers to the police and to the public, who in general can peer into the windows of every passing vehicle. Under the holding in .... [the most recent case], the diminished expectation of privacy in an automobile justifies permitting a warrantless search of a vehicle when there is probable cause to believe that the vehicle contains a controlled substance, even absent a showing of exigent circumstances. (pages 128 and 129)

The court said that, since the state and federal constitutional provisions are practically identical, the Wisconsin Supreme Court has traditionally found it advantageous to follow the U.S. Supreme Court's lead on search and seizure cases.

Chief Justice Heffernan, one of 3 dissenting justices, found no reason for following the reasoning of the U.S. Supreme Court, which, he noted, had been "anything but clear" on the issue. He thought the majority ruling was "contrary to the spirit and the plain meaning of our Constitu-

tion" (page 144). Citing more than 60 years of use of the exigent circumstances doctrine, Heffernan thought the search in this case was unreasonable because the agents had conducted a warrantless search of the truck and had no reason to justify immediate action.

Justice Bablitch also wrote a dissenting opinion, noting that although a warrantless search of a car might sound innocuous, the majority ruling would apply to a search of "suitcases, briefcases, purses and wallets" in a vehicle. He also pointed out that the use of an exigent circumstances standard was pretty simple — police merely had to ask whether there was "enough time to get a warrant." Bablitch felt that the ruling did little to help police and a lot to diminish the constitutional right to privacy.

Escape

In *State v. Sugden,* 143 Wis. 2d 728 (1987), the defendant had been convicted of the crime of escape. He had broken out of a secured building within a correctional institution but did not make it outside the final prison fence. The issue was whether the defendant's actions constituted an escape.

Richard Dean Sugden, Jr. was transferred within the state prison system to the Kettle Moraine Correctional Institution on July 3, 1984. That institution has a number of separate buildings with different security classifications. Sugden was confined in Wisconsin Cottage, pending placement within the general prison population. On July 8, 1984, he pretended to be sick. When 2 correctional officers came to check out Sugden's problem, he and 2 other inmates took them hostage.

The inmates proceeded to take a station wagon and sped toward the double fence at the main gate. The station wagon crashed through the inner fence but was upended short of the outer fence. Sugden was convicted in court of 3 crimes: taking hostages, operating a vehicle without consent and escape. He appealed the escape conviction.

The Court of Appeals examined the state's charge against Sugden which said:

> after having .... been duly transferred by order of the Wisconsin Department of Health and Social Services to the Kettle Moraine Correctional Institution, [he] did feloniously and intentionally escape from said custody, contrary to sec. 946.42 (3) (a) of the Wisconsin Statutes.... (volume 137, page 372)

The Court of Appeals interpreted this to be a charge of escape from an institution. The court concluded that escape from an institution occurs only when the escapee gets "beyond the prison walls or physical boundaries."

The state petitioned the Supreme Court to review the decision of the Court of Appeals. On review, the Supreme Court found that the Court of Appeals had incorrectly stated what the charge was. Critically, the charge was escape from the custody of an institution, not escape from an institution. The question then became whether "custody" under the statute pertains only to the institution's outer boundaries or whether it also covers custodial facilities within the institution. The court noted a variety of different types of custodial settings, all occurring within a prison's walls. Sugden was within the custody of an institution when he was inside Wisconsin Cottage and escaped from custody when he intentionally left the cottage, even though he had not gone beyond the final physical boundary at Kettle Moraine Correctional Institution. The Supreme Court reversed the decision of the Court of Appeals.

SUPREME COURT

Chief Justice: NATHAN S. HEFFERNAN

Justices: ROLAND B. DAY
SHIRLEY S. ABRAHAMSON
WILLIAM G. CALLOW
DONALD W. STEINMETZ
LOUIS J. CECI
WILLIAM A. BABLITCH

Director of State Courts: J. DENIS MORAN, 266-6828.

Clerk: MARILYN L. GRAVES, 266-1880.

Court Commissioners: GREGORY POKRASS, NANCY KOPP, JOSEPH M. WILSON, 266-7442; WILLIAM MANN, 266-6708.

Mailing Address: P.O. Box 1688, Madison 53701-1688; location: Room 231 East, State Capitol, Madison.

Telephone: (608) 266-1880.

Number of Positions: 36.00.

Total Budget 1987-89: $4,211,900.

Statutory Reference: Article VII, Section 2 *et seq., Wisconsin Constitution;* Chapter 751, Statutes.

Organization: The Supreme Court consists of 7 justices elected for 10-year terms at the nonpartisan April election. Only one justice may be elected at each such election, so that some Supreme Court vacancies are filled by appointment for several years until there is an open April election date at which a full-term successor can be chosen by the people. The term of office begins in August following the April election. Any 4 justices constitute a quorum for conducting the court's business.

The justice with the greatest seniority on the court serves as chief justice unless he or she declines the position, in which event the justice with the next greatest seniority serves as chief justice.

The courtroom and offices of the court are located in the State Capitol. The justices' salaries are fixed by statute. The current annual salary for the chief justice is $85,336 and for the other 6 justices it is $76,859.

The Supreme Court is in session for oral arguments from September through June. The court hears matters during July and August upon call of the chief justice.

The court's staff includes the director of state courts, who assists the court in its administrative functions; 4 commissioners, who assist the court in its judicial functions; a clerk, who keeps the court's records; and a marshal. Each justice has a private secretary and a law examiner.

Functions: Under the Constitution the Supreme Court has original jurisdiction in certain cases of statewide concern and discretionary appellate jurisdiction in all other cases. It is the final authority on the State Constitution and the highest judicial tribunal for any action begun in the state courts, except for federal questions, which can be appealed to the U.S. Supreme Court. The court in its discretion hears cases on appeal from the Court of Appeals, cases permitted to bypass the Court of Appeals, and cases certified to it by the Court of Appeals. The court does not take testimony, but decides cases on the basis of printed briefs and, in some instances, oral argument. The court determines whether there is a need for oral arguments. The court considers cases in the order briefs are filed, giving preference to criminal cases. All cases are placed on a calendar which is heard every 4 weeks.

The court's decisions are delivered in writing and are published in the *Wisconsin Reports* and the *North Western Reporter*. During calendar year 1988, 268 matters were pending from 1987, 1,002 new matters were filed and 1,050 matters were terminated. At the beginning of calendar year 1989, 220 matters were pending before the court.

The Constitution provides that the Supreme Court has "superintending and administrative authority over all courts" in the state. The chief justice is the administrative head of the state judicial system, and the court's administrative authority is exercised according to rules adopted by the Supreme Court.

The Supreme Court appoints the Board of Attorneys Professional Competence, the Board of Attorneys Professional Responsibility, and the state law librarian. It licenses attorneys to practice law and, after a hearing, may disbar attorneys for cause. Since 1929, it has promulgated rules of pleading, practice, and procedure for all courts in the state. The Judicial Council acts in an advisory capacity in matters of pleading, practice and procedure and proposes rule changes to the court.

The chief justice, acting through the director of state courts, keeps informed of the status of judicial business in the courts of the state and designates and assigns circuit judges and reserve judges to serve temporarily in other circuit courts when a calendar is congested; when a judge is on vacation, disqualified, or unable to act; or when a vacancy occurs.

OFFICE OF DIRECTOR OF STATE COURTS

Director of State Courts: J. DENIS MORAN, 266-6828, Room 213 Northeast, State Capitol, Madison 53701-1688.

Deputy Director for Court Operations: KATHLEEN MURPHY, 266-3121, Room 315, 110 East Main Street, Madison 53703.

Deputy Director for Management Services: MARY T. RIDER, 266-8914, Room 430, 110 East Main Street, Madison, 53703.

Fiscal Officer: KEN TIMPEL, 266-6865, Room 430, 110 East Main Street, Madison 53703.

Judicial Education: V. KNOPPKE-WETZEL, 266-7807, Room 420, 110 East Main Street, Madison 53703.

Medical Malpractice Mediation System: RANDY SPROULE, 266-7711, Room 210, 110 East Main Street, Madison 53703.

Court Information System: CHARLES MILLER, 266-5750, Room 303, 110 East Main Street, Madison 53703.

District Court Administrators: District 1, RONALD WITKOWIAK, Room 500-A, Milwaukee County Courthouse, Milwaukee 53233, (414) 278-5113; *District 2,* KERRY CONNELLY, Racine County Courthouse, Racine 53403, (414) 636-3133; *District 3,* vacancy, Room 345B, Waukesha County Courthouse, Waukesha 53188, (414) 548-7209; *District 4,* JERRY LANG, Winnebago County Courthouse, P.O. Box 2808, Oshkosh 54903-2808, (414) 424-0028; *District 5,* MARY KAY BAUM, Room 234, City-County Building, Madison 53709, (608) 267-8820; *District 6,* SAMUEL SHELTON, 101 Division, North, Stevens Point 54481, (715) 345-5296; *District 7,* STEVEN STEADMAN, La Crosse County Courthouse, La Crosse 54601, (608) 785-9546; *District 8,* WILLIAM SUCHA, Suite 221, 414 E. Walnut St., Green Bay 54301, (414) 436-3915; *District 9,* JAMES SEIDEL, 740 Third Street, Wausau 54401, (715) 842-3872; *District 10,* GREGG T. MOORE, Suite 3, 1102 Regis Court, Eau Claire 54701, (715) 839-4826.

Mailing Address: P.O. Box 1688, Madison 53701-1688; location: Room 213 Northeast, State Capitol, Madison.

Telephone: (608) 266-6828.

Publications: Workload Statistics.

Number of Employes: 64.50.

Total Budget 1987-89: $7,785,800.

Statutory Reference: Section 758.19; Supreme Court Rule 70.01.

History: The position of director of state courts was created by the Rule of Judicial Administration promulgated by the Supreme Court and issued under an order dated October 30, 1978, and a further order dated February 19, 1979. This position replaced that of administrative director of courts, which was created by Chapter 261, Laws of 1961.

Judicial Conference
State Bar Board of Governors
Chief Judge Court of Appeals
Administrative Assistant
Staff Attorneys
District Presiding Judge
Court of Appeals Judges
SUPREME COURT
Chief Justice
Commissioners
Law Clerks
Secretaries
Director of State Courts
Assistant to Chief Justice
Chief Judges Judicial Administrative Districts
Deputy Chief Judges
District Court Administrators
Circuit Judges
Municipal Courts
Legislative Assistant
Judicial Education
Law Library
Management Services
Wisconsin Court Information System
Boards of:
Attorneys Professional Competence
Attorneys Professional Responsibility
Clerk of Supreme Court and Court of Appeals
Court Operations
Medical Malpractice Mediation System

Organization: The director of state courts is appointed by and serves at the pleasure of the supreme court. At the direction of the chief justice, the director administers the nonjudicial business of the court system in cooperation with the appointed chief judges and staff. The director is a member of the Judicial Council and the Judicial Education Committee.

Functions: The director of state courts keeps the chief justice and the supreme court informed of the status of judicial business in the state courts and assists in court administration. The director's specific functions, as set out by Supreme Court Rule, are supervision of state-level court personnel; development and supervision of the budget for the court system; legislative liaison and public information; development and maintenance of the court information system; judicial education; interdistrict assignment of active and reserve judges; development and supervision of judicial planning and research; advising the supreme court regarding improvements within the system; fiscal control; allocation of space and equipment; collection, compilation and utilization of judicial system statistics; supervision of the law library and the supreme court clerk; administration of the medical mediation panels system under statutory Chapter 655; and performance of other duties as required by the supreme court.

STATE LAW LIBRARY

State Law Librarian: MARCIA J. KOSLOV.

Reader Services (reference, circulation, government documents): DENNIS AUSTIN, JANE COLWIN, CHERYL O'CONNOR, JANICE PENA.

Technical Services: LAUREL ZIMMERMAN, ELAINE SHARP, JULIE TESSMER, JANET OBERLA.

Mailing Address: P.O. Box 7881, Madison 53707; location: Room 310 East, State Capitol, Madison.

Telephone: (608) 266-1424 (office); (608) 266-1600 (reader services).

Number of Employes: 8.00.

Total Budget 1987-89: $1,186,400.

Statutory Reference: Section 758.01; Supreme Court Rule 82.01.

Organization: The State Law Library is administered by the Supreme Court, which appoints the librarian and the library staff and promulgates and enforces rules governing the use of the library.

Functions: The library is a public library, but it serves primarily as the legal resource center for the Wisconsin Supreme Court, the Department of Justice, the legislature, the Office of the Governor and the various executive agencies, and members of the State Bar.

The library provides reference and basic legal research services and legal-related database searches. Through a circulation policy instituted in 1976, much of the collection is now available on an overnight or 5-day loan basis. Wisconsin reference materials are usually noncirculating. Circulation is open to judges, attorneys, legislators and state agency personnel.

Holdings: The State Law Library collection consists of approximately 135,000 bound volumes, 3,500 reels of microfilm, and 85,000 microfiche. The collection features the session laws, statutory codes, court reports, administrative rules, legal indexes and digests of the U.S. government, all 50 states, and the U.S. territories. General reference materials include legal and bar periodicals (950 titles, of which 650 are current), legal treatises and legal encyclopedias. The federal government documents collection covers the U.S. Statutes at Large, U.S. Code, Congressional Record, Federal Register, Code of Federal Regulations, U.S. Congressional bills and reports, and various federal agency reports and administrative decisions. The library also makes available various appeal papers for almost all Wisconsin Supreme Court and Court of Appeals cases, including cases, briefs, and appendices.

JUDICIAL COMMITTEES AND BOARDS

Board of Attorneys Professional Competence

Members: SHARREN B. ROSE, *chairperson;* JEAN BRAUCHER, DENNIS D. CONWAY, RUTH S. DOWNS, JOHN A. KIDWELL, JOHN J. KIRCHER, JOSEPH E. MOEN, ROBERT B. PEREGRINE, WALTER H. WHITE, JR.

Director: ERICA MOESER, 266-9760.

Mailing Address: Room 405, 119 Martin Luther King, Jr. Blvd., Madison 53703-3355.

Number of Employes: 4.50.

Total Budget 1987-89: $418,800.

Reference: Supreme Court Rules 30, 31 and 40.

History: The Board of Continuing Legal Education, created in 1975 by rule of the Supreme Court, became the Board of Attorneys Professional Competence on January 1, 1978.

Organization: The board consists of 9 members appointed by the Supreme Court for 3-year terms. Five members of the board must be members of the State Bar and 4 members must be selected from the judiciary of the state, the faculty of the law schools of the state, and the public.

Functions: The board implements and enforces the rules of continuing legal education for attorneys, administers the State Bar examination, and processes all requests for readmission and for admission to the State Bar based on foreign licensure.

Board of Attorneys Professional Responsibility

Members: PATRICIA M. HEIM, *chairperson;* JOHN E. SHANNON, JR., *vice chairperson;* JACQUELINE BOHMAN, MICHAEL FAUERBACH, LISE LOTTE GAMMELTOFT, PATRICIA GROVE, EDWARD E. HALES, ROBERT J. KAY, CELIA SERAPHIM, MICHAEL R. WHERRY, GEORGE WILLIAMS, DIANE ZORE.

Administrator: GERALD C. STERNBERG.

Deputy Administrator: ELSA P. GREENE.

Deputy Administrator, Milwaukee Office: JEANANNE L. DANNER.

Mailing Addresses: Room 410, 110 East Main Street, Madison 53703; Room 301, 210 East Michigan Street, Milwaukee 53202.

Telephone: Madison (608) 267-7274; Milwaukee (414) 227-4623.

Number of Employes: 14.00.

Total Budget 1987-89: $1,353,600.

Reference: Supreme Court Rule 21.01.

History: The Board of Attorneys Professional Responsibility was created on January 1, 1977, by order of the Wisconsin Supreme Court and assumed the attorney disciplinary function of the former Board of State Bar Commissioners on January 1, 1978.

Organization: The board consists of 12 members appointed by the Supreme Court, 8 of whom are attorneys and 4 who are not. The board is assisted by its administrator and staff.

Agency Responsibility: Upon request of the Supreme Court or the Board of Attorneys Professional Competence, the board investigates the moral character of a person seeking admission to the State Bar. The board makes findings and recommendations to the Supreme Court on a petition for reinstatement of a lawyer's license to practice. It investigates complaints of attorney misconduct and takes disciplinary action ranging from private reprimand to the filing of a formal complaint with the supreme court seeking public reprimand, suspension or revocation. The board also investigates and files petitions with the court for cases involving an attorney's medical incapacity.

Judicial Conference

Statutory Reference: Section 758.17; Supreme Court Rule 70.15.

The Judicial Conference is made up of the justices of the Supreme Court, the judges of the Court of Appeals, judges of the circuit courts, reserve judges and 3 municipal judges representing the municipal courts. It meets at least once a year at a place and time designated by a joint meeting of its executive committee and the Judicial Education Committee.

The conference considers the administration of justice and makes recommendations for improvement, conducts educational programs to assist members in performing their judicial duties, and adopts forms necessary for the administration of certain proceedings.

Sections, formally established by the conference in 1979, deal with family and children's law, probate and mental health, appellate practice and procedures, civil law, and criminal law and traffic. The conference also maintains a standing committee on legislation.

Judicial Education Committee

Members: CHIEF JUSTICE NATHAN S. HEFFERNAN, *chairperson;* J. DENIS MORAN (director of state courts), FRANK C. DEGUIRE (dean, Marquette University Law School), CLIFF F. THOMPSON (dean, University of Wisconsin Law School), V. KNOPPKE-WETZEL (director of judicial education); ANN WALSH BRADLEY, R. THOMAS CANE, PATRICIA S. CURLEY, JAMES EATON, FREDERIC FLEISHAUER, THOMAS J. GALLAGHER, MORIA G. KREUGER, LEAH M. LAMPONE, NEAL P. NETTESHEIM, PATRICK L. SNYDER.

Director of Judicial Education: V. KNOPPKE-WETZEL.

Mailing Address: Room 420, 110 East Main Street, Madison 53703.

Telephone: (608) 266-7807.

Reference: Supreme Court Rule 32.01.

The Supreme Court Judicial Education Committee approves the educational programs which are conducted or recommended for all court personnel by the director of judicial education.

In 1976 the Wisconsin Supreme Court issued SCR Chapter 32 establishing a mandatory program of continuing education for the Wisconsin judiciary. This rule, effective January 1, 1977, as amended November 25, 1980, applies to all supreme court justices and commissioners, court of appeals judges and staff attorneys, circuit court judges, and reserve judges. Each individual subject to the rule must obtain a designated number of hours of continuing education within a period of 6 years. The committee also sponsors educational programs, conducted by the director of judicial education, for clerks of circuit court and municipal judges.

JUDICIAL COMMISSION

Members: FRANK T. CRIVELLO (circuit court judge), WILLIAM EICH (appeals court judge), GERALD M. O'BRIEN, ADRIAN P. SCHOONE (attorneys); ROGER D. BIDDICK, ROCKNE G. FLOWERS, ELIZABETH G. KING, FRANK MEYER, MARILYNN WEILAND (public members appointed by governor).

Executive Director: ELENA A. CAPPELLA.

Administrative Assistant: EDITH P. WILIMOVSKY.

Mailing Address: Suite 606, Tenney Building, 110 East Main Street, Madison 53703.

Telephone: (608) 266-7637.

Publications: Annual Report.

Number of Employes: 2.00.

Total Budget 1987-89: $291,400.

Statutory Reference: Section 757.83.

History: By rules effective January 1, 1972, the Supreme Court created a 9-member commission to implement the Code of Judicial Ethics adopted by the court, effective January 1, 1968. The code enumerated standards of personal conduct for the "ideal judge". It also set specific rules of conduct, the violation of which would subject a judge to discipline. The commission had authority to reprimand or censure a judge, subject to review by the Supreme Court.

In April 1977, the electorate ratified a constitutional amendment that granted the Supreme Court power to reprimand, censure, suspend, or remove any justice or judge for cause or disability, pursuant to procedures enacted by the legislature. Chapter 449, Laws of 1977, created the Judicial Commission as an independent agency, not subject to the administrative supervision of the Supreme Court. The court then abolished its own commission as of July 31, 1978.

Organization: The commission is comprised of 9 members serving 3-year terms (limited to not more than 2 consecutive full terms). The governor appoints, with the advice and consent of the senate, 5 members who are neither judges nor lawyers. The Supreme Court appoints one circuit court judge, one court of appeals judge and 2 lawyers.

Agency Responsibility: The commission investigates any possible misconduct or permanent disability of a judge or justice. If the commission finds probable cause that a judge has engaged in misconduct it files a formal complaint with the Supreme Court. A finding of probable cause of permanent disability results in a petition to the court. Proceedings prior to the filing of a complaint or petition are confidential. The commission prosecutes the action before a 3-judge panel unless it requests a jury trial. The Supreme Court reviews the verdict for findings of fact, conclusions of law and recommended disposition and determines appropriate action.

District 5 Chief Judge Angela Bartell prepares to sentence after examining the sentencing guideline form (photo courtesy of Bruce C. Stark, Sentencing Commission).

JUDICIAL COUNCIL

Members: EVA M. SOEKA (designated by dean, Marquette University Law School), *chairperson;* PETER G. PAPPAS (representing Judicial Conference), *vice chairperson;* DONALD W. STEINMETZ (representing Supreme Court); RICHARD S. BROWN (representing Court of Appeals); THOMAS P. DOHERTY, RAYMOND E. GIERINGER, THOMAS S. WILLIAMS (representing Judicial Conference); SENATOR ADELMAN (chairperson, Senate Judiciary and Consumer Affairs Committee), REPRESENTATIVE RUTKOWSKI (chairperson, Assembly Judiciary Committee); DAVID E. SCHULTZ (designated by dean, University of Wisconsin Law School); JAMES D. JEFFRIES (designated by attorney general); ORLAN L. PRESTEGARD (revisor of statutes); JOHN DECKER (president-elect, State Bar); J. DENIS MORAN (director of state courts); ERIC SCHULENBURG (designated by state public defender); JAMES A. DRILL, DON M. HERRLING, JOAN KESSLER (representing State Bar); SHERRI MCNAMARA, STEPHEN D. WILLETT (public members appointed by governor).

Executive Secretary: JAMES L. FULLIN, JR.

Mailing Address: Room 777 Anchor Building, 25 West Main Street, Madison 53702.

Telephone: (608) 266-1319.

Number of Employes: 2.00.

Total Budget 1987-89: $218,900.

Statutory Reference: Section 758.13.

History: The Judicial Council was created by Chapter 392, Laws of 1951. It succeeded to the functions of the Advisory Committee on Rules of Pleading, Practice and Procedure, created by Chapter 404, Laws of 1929. Chapter 247, Laws of 1967, provided for the administrator of courts (or the deputy or assistant) to serve as executive secretary of the council. This was changed by Chapter 154, Laws of 1969, which made the administrator of courts a member of the council but not its executive secretary. Chapter 187, Laws of 1977, added a Court of Appeals judge to council membership. A Supreme Court Order of October 30, 1978, replaced the administrator of courts with the director of state courts. 1983 Wisconsin Act 377 increased the council membership to 20 by adding the state public defender.

Organization: The council appoints the executive secretary outside the classified service. Council membership includes a Supreme Court justice selected by the Supreme Court, a Court of Appeals judge selected by the Court of Appeals, and 4 circuit court judges selected by the Judicial Conference. The 9 *ex officio* members (or their designees) are: the attorney general, the state public defender, the chairpersons of the Senate Judiciary and Consumer Affairs Committee and the Assembly Judiciary Committee, the director of state courts, the revisor of statutes, the deans of the Wisconsin and Marquette Law Schools, and the president-elect of the State Bar of Wisconsin. Other council members include 2 citizen members appointed by the governor and 3 members elected by the State Bar, all of whom serve 3-year terms. The council meets monthly, except in July and August. The various committees of the council meet regularly and are composed of council and ad hoc members.

Functions:

The Judicial Council studies the rules of pleading, practice and procedure, and advises the Supreme Court as to changes which will simplify procedure and promote a speedy determination of litigation. It is also responsible for surveying and studying the organization, jurisdiction and methods of administration and operation of all the courts of this state.

The council can advise the Supreme Court and legislature on any matter affecting the administration of justice in Wisconsin, and it may recommend to the legislature any changes in procedure, jurisdiction or organization of the courts which can require legislative action. It assists in preparing the Supreme Court rules for biennial publication.

STATE BAR OF WISCONSIN

Board of Governors: Officers: G. LANE WARE, *president;* JOHN R. DECKER, *president-elect;* JOHN WALSH, *past president;* DIANE S. DIEL, *secretary;* PAUL G. SWANSON, *treasurer;* LINDA S. BALISLE, *chairman of the board. District 1:* DONALD E. MAYEW; *District 2:* PAMELA E. BARKER, KAREN A. CASE, JAMES E. COLLIS, MARGADETTE M. DEMET, JOHN A. FIORENZA, ROBERT L. HABUSH, THEODORE J. HODAN, JOHN V. KITZKE, DAVID A. SAICHEK, ANNE B. SHINDELL, DANIEL L. SHNEIDMAN, ROBERT E. TEHAN, JR., ARTHUR J. VLASAK; *District 3:* STEVEN R. SORENSON; *District 4:* ELDON L. BOHROFEN; *District 5:* THOMAS S. SLEIK; *District 6:* CORNELIUS ANDRINGA; *District 7:* FRANCIS J. PODVIN; *District 8:* TERRENCE M. GHERTY; *District 9:* MILO G. FLATEN, CATHERINE J. FURAY, DANIEL W. HILDEBRAND, DANIEL A. ROTTIER, JAMES D. SWEET, HARVEY L. WENDEL; *District 10:* A. GERARD PATTERSON; *District 11:* GARY E. SHERMAN; *District 12:* JOHN W. ROETHE; *District 13:* ERIC L. BECKER; *District 14:* JOHN A. EVANS; *District 15:* JOHN F. KERSCHER; *District 16:* JOHN H. SCHIEK; *Young Lawyers Division:* ROBERT R. GOEPEL; *Non-Resident Lawyers Division:* ROBERT W. HANSEN, RICHARD O'MELIA, W. SCOTT VAN ALSTYNE, JR.; *Government Lawyers Division:* WILLIAM A.J. DRENGLER; *Nonlawyer Members:* MORRIS D. ANDREWS, MERNA JARVIS, BONNIE L. SCHWID.

Executive Director: STEPHEN L. SMAY.

Mailing Address: P.O. Box 7158, Madison 53707-7158; location: 402 West Wilson Street, Madison, 53703

Telephone: (608) 257-3838.

Publications: *Wisconsin Lawyer; Consumer's Guide to Wisconsin Law; Legal Guide for Wisconsin Farmers;* various audiocassettes and publications issued by State Bar Continuing Legal Education (CLE) Books and State Bar CLE Seminars; staff training and client education videotapes from the Law Office Videotape Series; section and division newsletters; general membership newsletter; information reports, pamphlets, and brochures, including Wisconsin Personal

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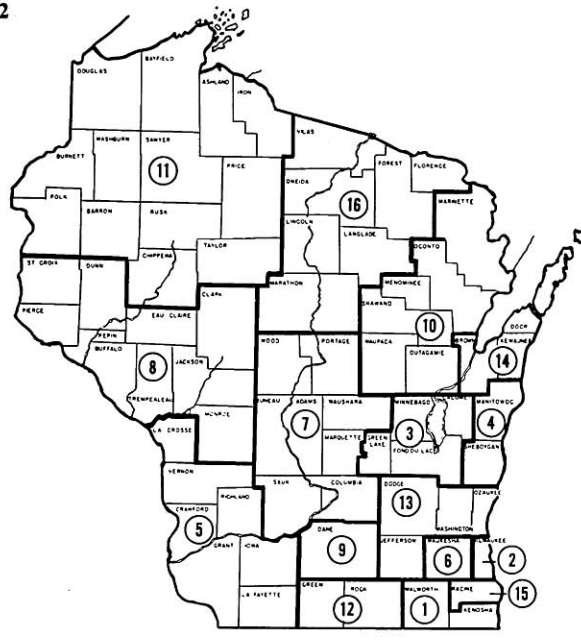
STATE BAR DISTRICTS
as promulgated in 1972



Injury Jury Verdict Survey Report, Wisconsin News Reporters Legal Handbook, public service announcements on legal issues.

History: In 1956 the Supreme Court ordered organization of the State Bar of Wisconsin, effective January 1, 1957. This organization acquired the facilities, records, property, and staff of the former Wisconsin Bar Association, a voluntary association organized in 1877.

Organization: Subject to rules prescribed by the Supreme Court, the State Bar is governed by a 47-member board of governors, consisting of the officers and 33 members selected by the members of the State Bar from the 16 districts of the state. In addition, the Government Lawyers Division and Young Lawyers Division each select one member while the Non-Resident Lawyers Division selects 3 representatives. Three nonlawyers appointed by the supreme court have floor and voting privileges. The Board of Governors selects the executive director and the chairman of the board.

Thirteen standing committees, most consisting of 12 State Bar members, appointed by the State Bar president to 3-year terms, are prescribed by the Supreme Court. These are committees on: Bench and Bar, Assistance for Lawyers, Communications, Convention and Entertainment, Insurance for Members, Interprofessional and Business Relations, Legal Assistance, Legal Education and Bar Admission, Legislation, Post-Graduate Education, Professional Ethics, Research Planning, and Unauthorized Practice of Law.

The State Bar consists of all attorneys and judges entitled to practice before the state courts. (Beginning July 1, 1988, the Wisconsin Supreme Court temporarily suspended its mandatory membership rule pending the disposition of a lawsuit in the U.S. Supreme Court.) Attorneys are admitted to the bar by the full court or by a single justice of the supreme court. As of June 1988, there were 15,451 lawyers eligible to be members of the State Bar. Once admitted, members of the bar are subject to the rules of ethical conduct prescribed by the Supreme Court, whether they practice before a court, administrative body or in consultation with clients not involving court appearances.

The Wisconsin Bar Foundation, a nonprofit corporation serving as an adjunct of the State Bar, is dedicated to public service, to promoting good will between the legal profession and the general community and to providing public law education.

Functions of the Bar:

The bar works toward raising professional standards, improving the administration of justice, and furnishing continuing legal education to lawyers through its advanced training seminars division. It carries on a continuing program of legal research in the technical fields of substantive law, practice, and procedure, and provides reports and recommendations based on its research. The bar promotes improvement, development, and innovation in the delivery of legal services in Wisconsin, with an emphasis on adequate quantity and superior quality at reasonable cost.

COURT OF APPEALS

Clerk of Court of Appeals: MARILYN L. GRAVES, P.O. Box 1688, Madison 53701-1688; location: Room 231 East, State Capitol, Madison; (608) 266-1880.

Chief Staff Attorney: EARL HAZELTINE, 119 Martin Luther King, Jr. Blvd., 7th Floor, Madison 53703; (608) 266-9321.

Number of Positions: 63.00.

Total Budget 1987-89: $6,719,800.

Statutory Reference: Art. VII, *Wisconsin Constitution;* Statutory Chapter 752.

History: A constitutional amendment ratified by the electorate on April 5, 1977, created the Court of Appeals. Chapter 187, Laws of 1977, implemented the amendment.

Organization: The Court of Appeals consists of 13 judges. It is divided into 4 districts, with 3 judges per district elected in Districts I, II and III, and 4 judges elected in District IV. Judges are elected for 6-year terms at the nonpartisan April election and must reside in the district from which they are elected. The term of office begins in August succeeding the election. Only one judge may be elected in a district in any one year. The Supreme Court appoints a Court of Appeals judge to be chief judge of the Court of Appeals for a 3-year term. The chief judge is also the administrative head of the court.

The court usually sits in panels of 3 judges to dispose of cases on their merits. Certain categories of cases can be disposed of by one judge.

The judges' salaries are fixed by statute. The current annual salary is $72,439.

The clerk of the Supreme Court is also the clerk of the Court of Appeals. The court's staff includes 13 staff attorneys. Each judge has a private secretary and a law examiner.

Functions: The Court of Appeals has appellate jurisdiction, supervisory jurisdiction and original jurisdiction to issue prerogative writs. Final judgments and orders of a circuit court may be appealed as a matter of right to the Court of Appeals. A judgment or order not appealable as a matter of right may be appealed to the Court of Appeals upon leave granted by the court. The Supreme Court may review the final decisions of the Court of Appeals.

JUDGES OF THE COURT OF APPEALS
April 4, 1989

District	Judicial Circuits Comprising Districts	Court Location	Judges	Term Expires July 31
I	Milwaukee	Milwaukee	Michael T. Sullivan	1990
			William R. Moser[1]	1992
			Ralph Adam Fine	1994
II	Kenosha, Racine, Walworth Waukesha, Washington, Ozaukee, Sheboygan, Manitowoc, Fond du Lac, Green Lake, Winnebago, and Calumet	Waukesha (also Fond du Lac, Racine)	Neal P. Nettesheim	1990
			Burton A. Scott[2]	1992
			Richard S. Brown[1]	1994
III	Door, Kewaunee, Brown, Oconto, Marinette, Forest and Florence (a combined 2-county circuit), Outagamie, Menominee and Shawano (a combined 2-county circuit), Langlade, Marathon, Lincoln, Oneida, Vilas, Taylor, Price, Iron, Ashland, Bayfield, Sawyer, Rusk, Chippewa, Eau Claire, Trempealeau, Buffalo and Pepin (a combined 2-county circuit), Dunn, Pierce, St. Croix, Barron, Polk, Burnett, Washburn, and Douglas	Wausau (also Eau Claire, Superior, Green Bay)	Daniel L. LaRocque	1991
			Gordon Myse	1993
			R. Thomas Cane	1995
IV	Rock, Green, Jefferson, Dodge, Dane, Lafayette, Iowa, Grant, Richland, Crawford, Sauk, Columbia, Marquette, Waushara, Waupaca, Portage, Wood, Adams, Juneau, Jackson, Clark, Monroe, Vernon, and La Crosse	Madison (also La Crosse Stevens Point)	Paul C. Gartzke[1]	1990
			Robert D. Sundby	1991
			Charles P. Dykman	1992
			William Eich	1993

[1]Presiding judge.

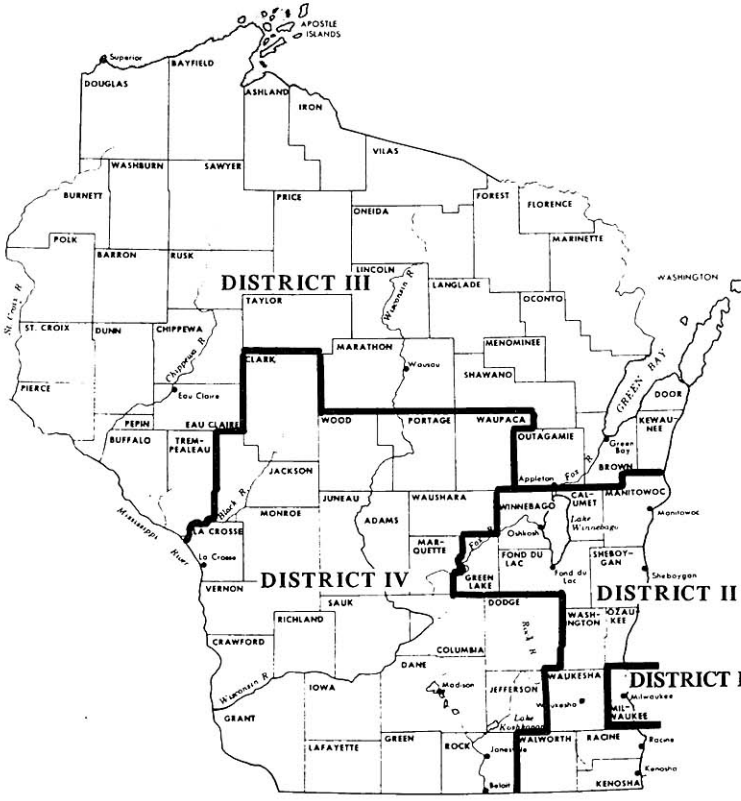
[2]Chief judge.

Source: Official records of the Court of Appeals, April 1989; State Elections Board; *1987-88 Wisconsin Statutes;* governor's appointment notices.

No testimony is taken in the Court of Appeals. It can dispose of appeal cases using printed briefs and the record made in the trial court. The court prescreens all cases to determine whether there is the need for oral argument. It takes up cases in the order in which the appeals are filed. When possible and without undue delay in civil cases, criminal cases are given preference. Both oral argument and briefs only cases are placed on a regularly issued calendar. Decisions are in writing, and the publication committee of the court determines which of the court's decisions will be published in the *Wisconsin Reports* and in the *North Western Reporter*.

The calendar year 1988 began with 1,290 cases carried over from 1987. During the 1988 calendar year 2,375 new cases were filed and 2,530 cases were terminated. There were 1,189 cases pending at the end of calendar year 1988 (40 cases were reinstated in 1988).

COURT OF APPEALS DISTRICTS



CIRCUIT COURTS

State Funded Positions: 437.00.

Total Budget 1987-89: $53,965,100.

Statutory Reference: Article VII, Sections 2, 6-9, *Wisconsin Constitution;* Chapter 753, Statutes.

Circuit court is the trial court of general jurisdiction under the Wisconsin Constitution. Pursuant to Chapter 449, Laws of 1977, the jurisdiction, powers, duties, functions and compensation of county courts and judges were made identical to that of circuit courts and judges.

Every county is a circuit except for 3 combined county circuits: Pepin-Buffalo, Menominee-Shawano, and Forest-Florence. Thus, there are 69 judicial circuits. Where judicial caseloads are heavy, a single circuit may have several branches of court with a judge presiding in each branch. As of June 1, 1989, there were 35 circuits containing multiple branches and 210 authorized circuit judgeships.

Circuit judges are elected on a nonpartisan basis for a 6-year term at the April election. The term of office begins in August following the election. The state pays each judge an annual salary of $67,910. Salaries of court reporters are also paid entirely by the state. Although the state pays travel expenses for judges and court reporters, most other expenses for operating the circuit courts are borne by the respective counties.

The circuit court has original jurisdiction in civil and criminal matters unless exclusive jurisdiction is given to another court. Administrative reviews of state administrative agency decisions and orders are heard in the circuit court. Appeals from municipal courts are to the circuit court, and appeals from the circuit court are to the court of appeals, unless otherwise provided by law.

JUDGES OF CIRCUIT COURT

Circuits[1]	Court Location	Judges	Term Expires July 31
		As of April 4, 1989	
Adams	Friendship	Raymond E. Gieringer	1991
Ashland	Ashland	William E. Chase	1990
Barron			
Branch 1	Barron	James C. Eaton	1992
Branch 2	Barron	Edward R. Brunner	1994
Bayfield	Washburn	Thomas J. Gallagher	1989
Brown			
Branch 1	Green Bay	Richard G. Greenwood	1991
Branch 2	Green Bay	Vivi L. Dilweg	1989
Branch 3	Green Bay	William J. Duffy	1992
Branch 4	Green Bay	Alexander R. Grant	1989
Branch 5	Green Bay	Peter Naze	1993
Branch 6	Green Bay	N. Patrick Crooks	1991
Branch 7	Green Bay	Richard Dietz[2]	1989
Buffalo-Pepin	Alma	Gary B. Schlosstein	1990
Burnett	Siren	Harry F. Gundersen	1992
Calumet	Chilton	Hugh F. Nelson	1992
Chippewa			
Branch 1	Chippewa Falls	Roderick A. Cameron	1990
Branch 2	Chippewa Falls	Richard H. Stafford	1991
Clark	Neillsville	Michael W. Brennan	1991
Columbia			
Branch 1	Portage	Earl J. McMahon	1991
Branch 2	Portage	Lewis W. Charles	1993
Crawford	Prairie du Chien	Michael T. Kirchman	1989
Dane			
Branch 1	Madison	Robert DeChambeau	1993
Branch 2	Madison	Michael B. Torphy, Jr.	1993
Branch 3	Madison	P. Charles Jones	1989
Branch 4	Madison	John Aulik	1992
Branch 5	Madison	Robert R. Pekowsky	1990
Branch 6	Madison	James C. Boll	1992
Branch 7	Madison	Moria Krueger	1991
Branch 8	Madison	Susan R. Steingass	1992
Branch 9	Madison	Gerald C. Nichol	1994
Branch 10	Madison	Angela B. Bartell	1991
Branch 11	Madison	Daniel R. Moeser	1991
Branch 12	Madison	Mark A. Frankel	1991
Branch 13	Madison	Michael Nowakowski	1991
Branch 14	Madison	George Northrup	1991

JUDGES OF CIRCUIT COURT—Cont.

Circuits[1]	Court Location	Judges	Term Expires July 31
Dodge			
Branch 1	Juneau	Daniel Klossner	1990
Branch 2	Juneau	Joseph E. Schultz	1991
Branch 3	Juneau	Thomas W. Wells	1989
Door	Sturgeon Bay	John D. Koehn	1994
Douglas			
Branch 1	Superior	Michael T. Lucci	1991
Branch 2	Superior	Joseph McDonald	1989
Dunn			
Branch 1	Menominee	Donna J. Muza	1992
Branch 2	Menominee	James A. Wendland	1991
Eau Claire			
Branch 1	Eau Claire	Thomas H. Barland	1994
Branch 2	Eau Claire	William D. O'Brien	1990
Branch 3	Eau Claire	Gregory Peterson	1990
Branch 4	Eau Claire	Benjamin Proctor	1994
Florence, see Forest-Florence			
Fond du Lac			
Branch 1	Fond du Lac	John W. Mickiewicz	1990
Branch 2	Fond du Lac	John P. McGalloway, Jr.	1994
Branch 3	Fond du Lac	Henry B. Buslee	1992
Branch 4	Fond du Lac	Steven W. Weinke	1992
Forest-Florence	Crandon	James W. Karch	1992
Grant			
Branch 1	Lancaster	John R. Wagner	1991
Branch 2	Lancaster	William L. Reinecke	1992
Green	Monroe	John Callaghan	1994
Green Lake	Green Lake	David C. Willis	1994
Iowa	Dodgeville	James P. Fiedler	1992
Iron	Hurley	Patrick John Madden	1993
Jackson	Black River Falls	Robert Radcliffe	1990
Jefferson			
Branch 1	Jefferson	John B. Danforth	1991
Branch 2	Jefferson	Arnold K. Schumann	1989
Branch 3	Jefferson	Harold H. Eberhardt	1991
Juneau	Mauston	Wallace A. Brady	1992
Kenosha			
Branch 1	Kenosha	David Bastian	1991
Branch 2	Kenosha	Paul F. Wokwicz[2]	1989
Branch 3	Kenosha	Bruce Schroeder	1990
Branch 4	Kenosha	Michael S. Fisher	1993
Branch 5	Kenosha	Robert V. Baker	1993
Branch 6	Kenosha	Jerold W. Breitenbach	1991
Kewaunee	Kewaunee	S. Dean Pies	1992
La Crosse			
Branch 1	La Crosse	Peter G. Pappas	1989
Branch 2	La Crosse	Michael Mulroy	1989
Branch 3	La Crosse	Dennis G. Montabon	1991
Branch 4	La Crosse	John J. Perlich	1991
Lafayette	Darlington	William Johnston	1991
Langlade	Antigo	James P. Jansen	1993
Lincoln	Merrill	John Michael Nolan	1992
Manitowoc			
Branch 1	Manitowoc	Allan J. Deehr	1993
Branch 2	Manitowoc	Darryl Deets[2]	1989
Branch 3	Manitowoc	Fred H. Hazlewood	1993
Marathon			
Branch 1	Wausau	Michael W. Hoover	1994
Branch 2	Wausau	Raymond F. Thums[2]	1989
Branch 3	Wausau	Ann Walsh Bradley	1992
Branch 4	Wausau	Vincent K. Howard	1989
Marinette			
Branch 1	Marinette	Charles D. Heath	1990
Branch 2	Marinette	William M. Donovan	1990
Marquette	Montello	Donn H. Dahlke	1989
Menominee, see Shawano-Menominee			
Milwaukee			
Branch 1	Milwaukee	Charles B. Schudson	1989
Branch 2	Milwaukee	George A. Burns, Jr.	1993
Branch 3	Milwaukee	Patricia S. Curley	1991
Branch 4	Milwaukee	Leah M. Lampone	1991
Branch 5	Milwaukee	Patrick T. Sheedy	1992
Branch 6	Milwaukee	Robert W. Landry	1991
Branch 7	Milwaukee	John F. Foley	1991
Branch 8	Milwaukee	Michael J. Barron	1992
Branch 9	Milwaukee	Russell W. Stamper, Sr.	1990
Branch 10	Milwaukee	Rudolph T. Randa	1989

JUDGES OF CIRCUIT COURT—Cont.

Circuits[1]	Court Location	Judges	Term Expires July 31
Branch 11	Milwaukee	Dominic Amato[2]	1989
Branch 12	Milwaukee	Michael J. Skwierawski	1991
Branch 13	Milwaukee	Victor Manian	1994
Branch 14	Milwaukee	Christopher Foley	1992
Branch 15	Milwaukee	Ronald S. Goldberger[2]	1989
Branch 16	Milwaukee	William D. Gardner	1991
Branch 17	Milwaukee	Francis Wasielewski	1990
Branch 18	Milwaukee	Patricia McMahon	1993
Branch 19	Milwaukee	John E. McCormick	1993
Branch 20	Milwaukee	William J. Shaughnessy	1992
Branch 21	Milwaukee	Clarence R. Parrish	1993
Branch 22	Milwaukee	William J. Haese	1993
Branch 23	Milwaukee	Janine Geske	1994
Branch 24	Milwaukee	David V. Jennings	1992
Branch 25	Milwaukee	John A. Franke	1993
Branch 26	Milwaukee	Michael P. Sullivan	1990
Branch 27	Milwaukee	Thomas P. Doherty	1993
Branch 28	Milwaukee	Robert J. Miech	1991
Branch 29	Milwaukee	Gary A. Gerlach	1989
Branch 30	Milwaukee	Frank Crivello	1991
Branch 31	Milwaukee	Patrick J. Madden	1990
Branch 32	Milwaukee	Michael D. Guolee	1990
Branch 33	Milwaukee	Laurence C. Gram	1993
Branch 34	Milwaukee	Ted E. Wedemeyer, Jr.[2]	1989
Branch 35	Milwaukee	Lee E. Wells	1994
Branch 36	Milwaukee	Joseph P. Callan	1991
Branch 37	Milwaukee	Arlene D. Connors	1992
Branch 38	Milwaukee	Jeffrey A. Wagner	1994
Branch 39	Milwaukee	Michael Malmstadt	1994
Monroe	Sparta	James W. Rice	1990
Oconto	Oconto	John M. Wiebusch	1993
Oneida			
Branch 1	Rhinelander	Robert E. Kinney	1990
Branch 2	Rhinelander	Mark A. Mangerson	1994
Outagamie			
Branch 1	Appleton	James T. Bayorgeon	1990
Branch 2	Appleton	Dennis C. Luebke	1991
Branch 3	Appleton	Joseph Troy	1993
Branch 4	Appleton	Harold Froehlich	1994
Branch 5	Appleton	Michael W. Gage	1991
Branch 6	Appleton	Dee R. Dyer	1994
Ozaukee			
Branch 1	Port Washington	Walter J. Swietlik	1991
Branch 2	Port Washington	Warren A. Grady	1992
Branch 3	Port Washington	Joseph D. McCormack	1991
Pepin, see Buffalo-Pepin			
Pierce	Ellsworth	Robert W. Wing	1992
Polk	Balsam Lake	James Erickson	1990
Portage			
Branch 1	Stevens Point	Frederick Fleishauer	1993
Branch 2	Stevens Point	John V. Finn	1989
Price	Phillips	Douglas Fox	1990
Racine			
Branch 1	Racine	Gerald P. Ptacek[2]	1989
Branch 2	Racine	Stephan A. Simanek	1992
Branch 3	Racine	Jon B. Skow	1990
Branch 4	Racine	Emmanuel J. Vuvanas	1992
Branch 5	Racine	Dennis J. Barry	1993
Branch 6	Racine	Wayne J. Marik	1991
Branch 7	Racine	James Wilbershide	1990
Branch 8	Racine	Dennis J. Flynn	1994
Richland	Richland Center	Kent C. Houck	1991
Rock			
Branch 1	Janesville	James P. Daley[2]	1990
Branch 2	Janesville	John H. Lussow	1992
Branch 3	Janesville	Gerald W. Jaeckle	1994
Branch 4	Janesville	Edwin C. Dahlberg	1990
Branch 5	Janesville	J. Richard Long	1992
Branch 6	Janesville	Patrick J. Rude	1991
Branch 7	Ladysmith	James E. Welker	1994
Rusk	Ladysmith	Frederick Henderson	1992
St. Croix			
Branch 1	Hudson	John G. Bartholomew	1992
Branch 2	Hudson	Phillip Todryk	1989
Sauk			
Branch 1	Baraboo	Robert Curtin	1994
Branch 2	Baraboo	James Evenson	1992
Branch 3	Baraboo	Virginia Wolfe	1994
Sawyer	Hayward	Alvin L. Kelsey	1989

JUDGES OF CIRCUIT COURT—Cont.

Circuits[1]	Court Location	Judges	Term Expires July 31
Shawano-Menominee			
Branch 1	Shawano	Earl W. Schmidt	1990
Branch 2	Shawano	Thomas G. Grover	1989
Sheboygan			
Branch 1	Sheboygan	L. Edward Stengel	1991
Branch 2	Sheboygan	John G. Buchen	1989
Branch 3	Sheboygan	Gary Langhoff	1993
Branch 4	Sheboygan	Daniel P. Anderson	1991
Taylor	Medford	Gary Lee Carlson	1992
Trempealeau	Whitehall	Richard Galstad	1990
Vernon	Viroqua	Michael Rosborough	1993
Vilas	Eagle River	James B. Mohr	1990
Walworth			
Branch 1	Elkhorn	Robert J. Kennedy	1994
Branch 2	Elkhorn	James L. Carlson	1992
Branch 3	Elkhorn	John Race	1991
Washburn	Shell Lake	Dennis C. Bailey	1991
Washington			
Branch 1	West Bend	J. Tom Merriam	1990
Branch 2	West Bend	James B. Schwalbach	1991
Branch 3	West Bend	Richard T. Becker	1990
Branch 4	West Bend	Leo F. Schlaefer	1994
Waukesha			
Branch 1	Waukesha	Harry G. Snyder	1993
Branch 2	Waukesha	Mark S. Gempeler	1990
Branch 3	Waukesha	Roger P. Murphy	1993
Branch 4	Waukesha	Patrick L. Snyder	1991
Branch 5	Waukesha	Harold J. Wollenzien	1990
Branch 6	Waukesha	Robert T. McGraw	1990
Branch 7	Waukesha	Clair H. Voss	1991
Branch 8	Waukesha	James R. Kieffer	1991
Branch 9	Waukesha	Willis J. Zick	1991
Branch 10	Waukesha	Marianne Becker	1991
Branch 11	Waukesha	Robert G. Mawdsley	1994
Branch 12	Waukesha	Kathryn W. Foster	1994
Waupaca			
Branch 1	Waupaca	Philip M. Kirk	1993
Branch 2	Waupaca	John P. Hoffmann	1992
Waushara	Wautoma	Jon P. Wilcox	1991
Winnebago			
Branch 1	Oshkosh	William E. Crane	1994
Branch 2	Oshkosh	Robert Haase	1994
Branch 3	Oshkosh	Thomas S. Williams	1992
Branch 4	Oshkosh	Robert Hawley	1994
Branch 5	Oshkosh	William H. Carver	1992
Wood			
Branch 1	Wisconsin Rapids	Dennis D. Conway	1991
Branch 2	Wisconsin Rapids	James M. Mason	1992
Branch 3	Wisconsin Rapids	Edward F. Zappen, Jr.	1991

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Bayfield	Washburn	Thomas J. Gallagher	1995
Brown			
Branch 2	Green Bay	Vivi L. Dilweg	1995
Branch 4	Green Bay	Alexander R. Grant	1995
Branch 7	Green Bay	Richard J. Dietz	1995
Crawford	Prairie du Chien	Michael T. Kirchman	1995
Dane			
Branch 3	Madison	P. Charles Jones	1995
Dodge			
Branch 3	Juneau	Andrew P. Bissonnette	1995
Douglas			
Branch 2	Superior	Joseph A. McDonald	1995
Jefferson			
Branch 2	Jefferson	Arnold K. Schumann	1995
Kenosha			
Branch 2	Kenosha	Barbara A. Kluka	1995
La Crosse			
Branch 1	La Crosse	Peter G. Pappas	1995
Branch 2	La Crosse	Michael J. Mulroy	1995
Manitowoc			
Branch 2	Manitowoc	Darryl W. Deets	1995
Marathon			
Branch 2	Wausau	Raymond F. Thums	1995
Branch 4	Wausau	Vincent H. Howard	1995
Marquette	Montello	Donn H. Dahlke	1995

JUDGES OF CIRCUIT COURT—Cont.

Circuits[1]	Court Location	Judges	Term Expires July 31
Milwaukee			
Branch 1	Milwaukee	Charles B. Schudson	1995
Branch 10	Milwaukee	Rudolph T. Randa	1995
Branch 11	Milwaukee	Dominic S. Amato	1995
Branch 15	Milwaukee	Ronald S. Goldberger	1995
Branch 29	Milwaukee	Gary A. Gerlach	1995
Branch 34	Milwaukee	Ted E. Wedemeyer, Jr.	1995
Branch 40[3]	Milwaukee	Louise M. Tesmer	1995
Portage			
Branch 2	Stevens Point	John V. Finn	1995
Racine			
Branch 1	Racine	Gerald P. Ptacek	1995
St. Croix			
Branch 2	Hudson	Conrad A. Richards	1995
Sawyer	Haywood	Alvin L. Kelsey	1995
Shawano-Menominee			
Branch 2	Shawano	Thomas G. Grover	1995
Sheboygan			
Branch 2	Sheboygan	Timothy M. Van Akkeren	1995

[1]Circuits are comprised of one county each, with the exception of Buffalo-Pepin, Forest-Florence and Shawano-Menominee.

[2]Appointed by governor to fill a vacancy.

[3]1987 WisAct 75 created Milwaukee, Branch 40, effective August 1, 1989.

Source: 1987-88 Wisconsin Statutes, "Appendix"; Director of State Courts, departmental data; State Elections Board, departmental data; and governor's appointment notices.

JUDICIAL ADMINISTRATIVE DISTRICTS

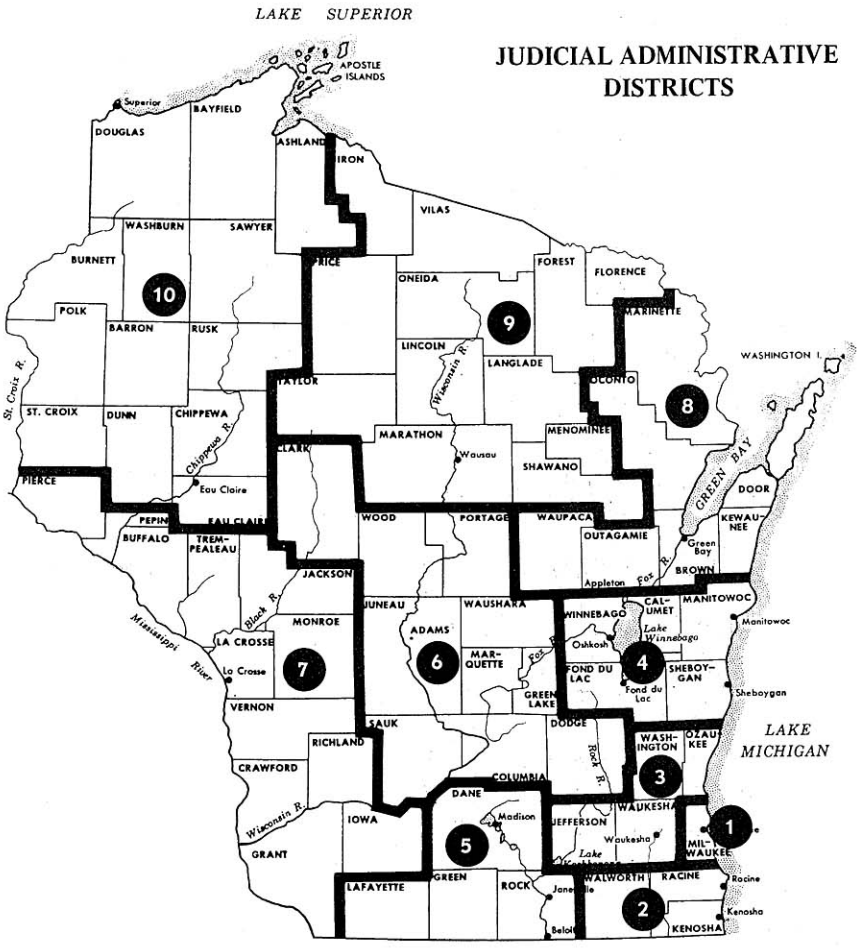
Chief Judges: District 1: MICHAEL BARRON; *District 2:* MICHAEL FISHER; *District 3:* PATRICK L. SNYDER; *District 4:* WILLIAM E. CRANE; *District 5:* ROBERT PEKOWSKY; *District 6:* JON P. WILCOX; *District 7:* JAMES P. FIEDLER; *District 8:* HAROLD V. FROEHLICH; *District 9:* GARY L. CARLSON; *District 10:* WILLIAM O'BRIEN.

Statutory Reference: Section 757.60 *et seq;* Supreme Court Rule 70.17 *et seq.*

The state is divided into 10 judicial administrative districts for the purpose of administering the court system. Each district includes all the circuit courts within the district and has a designated chief judge appointed by the Supreme Court.

The chief judge is the administrative chief of the judicial administrative district. He or she has the power to assign judges and manage caseflow throughout the district and to supervise personnel and financial planning. The chief judge exercises the full administrative power of the judicial branch subject to the administrative control of the Supreme Court. Failure to comply with an order of the chief judge is grounds for discipline. A chief judge serves a 2-year term, commencing on August 1 of the year of appointment, and cannot serve more than 3 successive terms of office. To assist with administrative duties the chief judge selects a deputy chief judge. Where a circuit court is divided into branches, the chief judge may select a division presiding judge to serve as the administrative head of that circuit. The presiding judge administers the circuit in accordance with the policies established by the chief judge.

The chief judge is also responsible for transferring cases between municipal judges in the district where a substitution, disqualification, illness, or vacancy is involved. If no municipal judge is available, cases are transferred to the circuit court.



COURT COMMISSIONERS

Statutory Reference: Sections 757.68 *et seq.*, 767.13, 48.065.

Court commissioners must be attorneys licensed to practice in Wisconsin. They may be appointed on a full- or part-time basis depending on the population of the county. In counties having a population of 100,000 or more, the county board may establish one or more full-time court commissioner(s), to be appointed by the chief judge who has supervisory and removal powers. The county board determines the salary for the office. State law requires the Milwaukee County Board to create at least one full-time court commissioner to administer small claims cases. In counties with populations of 100,000 to 500,000, the county board may create full- or part-time commissioners to administer small claims.

In every county, a circuit judge may appoint one or more part-time court commissioner(s), based on that judge's assessment of the requirements of court business, but the appointment must be approved by the majority of the circuit court judges in that county. In some cases, there are statutory limits on the number of part-time commissioners which a county may have.

The powers and duties of court commissioners were substantially expanded by Chapter 323, Laws of 1977. With the approval of the chief judge, a judge may authorize a court commissioner to issue summonses and arrest warrants, conduct uncontested probate proceedings, conduct initial appearances, set bail in criminal matters, receive noncontested forfeiture pleas and impose monetary penalties in traffic cases, conduct initial return appearances and conciliation conferences in small claims actions, and hear petitions for commitment under the mental health act. Under their own authority, commissioners may perform marriages and transfer any matter to a court if it appears justice would be better served by the transfer. Every judge has the powers and duties of a court commissioner.

In each county under 500,000 population, the circuit judges may appoint a *family court commissioner,* subject to the approval of the chief judge of the administrative district. In Milwaukee County the chief judge appoints the family court commissioner. Family court commissioners have the powers of court commissioners.

Any county board may authorize the chief judge to appoint one or more part- or full-time *juvenile court commissioner(s)* who must have been licensed to practice law at least 2 years prior to appointment. In certain matters, if authorized by the judge assigned juvenile jurisdiction, a juvenile court commissioner may issue summonses and conduct hearings, appearances and other proceedings.

In counties having a population of 500,000 or more, the chief judge must appoint a *probate court commissioner.* In counties of 100,000 to 500,000 population the county board may create the office of probate court commissioner. The chief judge shall appoint and may remove for cause the probate court commissioner. Probate court commissioners have the powers of court commissioners.

MUNICIPAL COURTS

Statutory Reference: Article VII, Sections 2 and 14, *Wisconsin Constitution*; Statutory Chapters 755 and 800.

The governing bodies of cities, villages and towns are authorized by statute to establish municipal courts. The municipal judge is elected for a 2-year to 4-year term, as determined by the municipality, beginning on May 1. The salary is fixed by the local governing body. There is no requirement that the office be filled by a lawyer. There are approximately 210 municipal courts in Wisconsin.

The municipal court is not a court of record. These courts have exclusive jurisdiction over offenses against ordinances of the town, village or city where legal relief only is sought. If equitable relief is demanded, the action must be brought in a court of record. Jurisdiction is limited to the violation of ordinances enacted by the municipality which created the municipal court. A municipal court may render judgment by ordering payment of a forfeiture plus court costs or may order community service work in lieu of a forfeiture if the defendant agrees. Where local ordinances conform with state drunk driving laws, a municipal judge may suspend or revoke a driver's license. Appeals from municipal court are to the circuit court for the county where the offense occurred.

If a municipal judge requires a substitution or is disqualified, ill or unavailable, the chief judge of the judicial administrative district in which the municipality lies may transfer the case to another municipal judge, or, if none is available, to the circuit court.