

Judiciary

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

Women in Wisconsin History:

Women in Agriculture

Photograph courtesy State Hist. Soc. of Wis.



Adda F. Howie
1852-1936

Pioneer in modern dairy farming, advocate of improved sanitary conditions, coined slogan, "milk from contented cows".

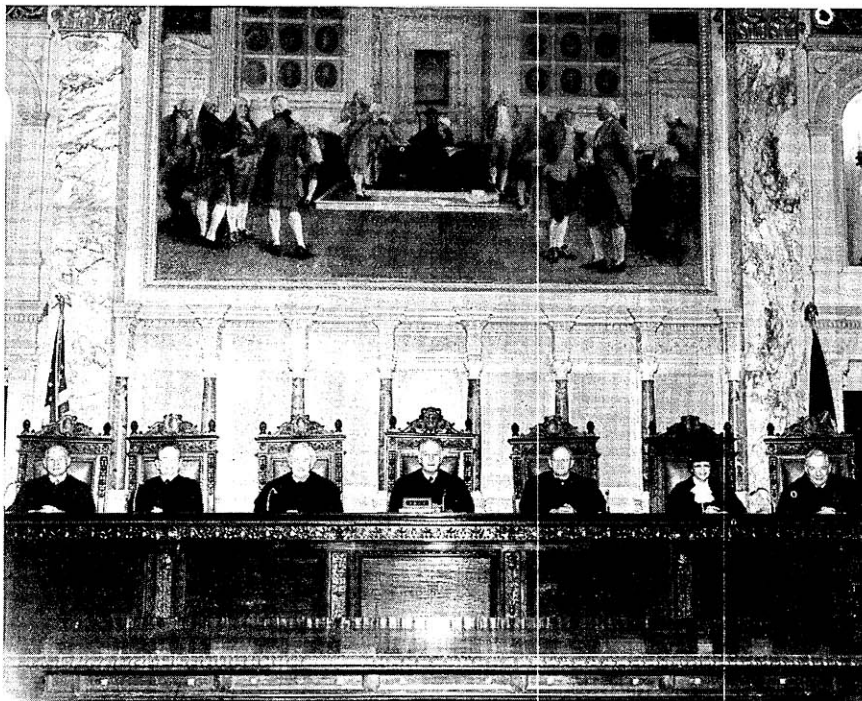
WISCONSIN SUPREME COURT¹

Name	Supreme Court Justice Since	1st Elected Term Began	Term Expires July 31
Bruce F. Beilfuss, Chief Justice	1964	1964	1984
Nathan S. Heffernan	1964*	1966	1986
Connor T. Hansen	1967*	1971	1981
Roland B. Day	1974*	1977	1987
Shirley S. Abrahamson	1976*	1979	1989
William G. Callow	1977 ²	1977 ²	1987
John L. Coffey	1978	1978	1988

*Initially appointed by the Governor.

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 \$55,299 and justices is \$48,919.

² As a result of compulsory retirement of Justice Leo Hanley under Sec. 24 of Art. VII of the Wisconsin Constitution, Justice Callow began his term August 1, 1977.



The Supreme Court in session. From left to right are Justices Callow, Day and Heffernan; Chief Justice Beilfuss; and Justices Hansen, Abrahamson and Coffey. The mural on the wall behind the dais is the Albert Herter painting, The Signing of the Constitution.

JUDICIAL BRANCH

A PROFILE OF THE JUDICIAL BRANCH

Introduction. For the average citizen the court system is probably the most remote and least understood branch of government. Though his attention may be drawn to the courts by news accounts of controversial cases and by dramatic portrayals of court proceedings on television, his personal involvement with the courts is likely limited to a traffic violation, a divorce proceeding or the settlement of a deceased relative's estate. His experience may lead him to conclude that the judicial system is a complicated maze filled with obscure procedures and language seemingly only half understood by the lawyers and judges themselves.

What may not be readily apparent to him is the tremendous variety and volume of business transacted in our court system. At one time or another almost every aspect of life is touched by the courts. Aside from the duty to try persons accused of criminal violations, the courts must 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. The courts also must act as referees between the citizens and their government by deciding what are the permissible limits of governmental power and the extent of an individual's rights and responsibilities.

A judicial system which strives for fairness and justice must be capable of first finding the truth and then deciding disputes under the rule of law. Thus, the courts are the places in which the facts are determined and the rules regulating conduct are interpreted and applied. These rules are derived from a variety of sources including the state and federal constitutions, legislative acts, administrative rules, and custom and experience expressed judicially in the common law. This body of law is constantly changing to meet the needs of our increasingly complex society. However, while these changes are often necessary and desirable, the courts have the added responsibility of ensuring that the fundamental principles of our constitutional system are protected and preserved.

How well the judicial branch performs the tasks we assign it depends a great deal on its organization and structure. In recent years many citizens, lawyers, legislators and judges have complained that the judicial process has become so expensive and time-consuming that justice is denied to many citizens. Consequently, the court system was substantially reorganized, first in 1959, then in 1977-78.

History. 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, subject to certain limitations, to determine their jurisdiction. By the 1848 constitution, the state was divided into 5 judicial circuit districts. The 5 judges presiding over the circuit courts were to meet at least once a year at Madison as a Supreme Court until the legislature established a Supreme Court as a separate body. In 1853, the present court commenced with 3 members — one elected to be chief justice and the other 2 elected to be associate justices. In 1877, the number of associate justices was increased to 4. In 1889, all members of the court were designated as justices and the justice with the longest continuous service was to preside as chief justice — a practice specified in the Wisconsin Constitution to the present day. Since 1903, the number of justices of the Wisconsin Supreme Court has been 7.

Over the next 100 years, the legislature, acting pursuant to constitutional authority, created a large number of statutory courts with varying types of jurisdiction. As a result of all the special

laws, there existed no uniformity among the counties in either procedure or jurisdiction. In addition, there was overlapping jurisdiction between the different types of courts in a single county. Court procedure in the various courts was not the same either. Furthermore, a number of special courts sprang up in the heavily urban areas such as Milwaukee County, where the judicial burden was the greatest. By 1958, the legislature had created 29 municipal courts and many inferior courts including 2 superior courts, several small claims courts, and in Milwaukee County a civil court with 6 branches, a district court with 2 branches and a children's court. Police justice courts were also established by municipalities for enforcement of local ordinances; and there were some 1,800 justice of the peace courts, many of which were virtually inactive.

1959 Reorganization. This apparently confused pattern led the 1951 Legislature to direct the Judicial Council to study and make a recommendation for a court reorganization plan. As a result of thorough study, the 1959 Legislature enacted Chapter 315, Laws of 1959, effective January 1962. This law provided for the primary reorganization of the court system. In subsequent sessions the legislature refined this plan by a series of acts.

Under the 1959 law the jurisdiction of the Supreme Court and circuit courts remained unchanged. The most significant change in the reorganization was the abolition of the special statutory courts (municipal, district, superior, civil and small claims). All the separate acts relating to the county courts were repealed, and the county court was reestablished with uniform jurisdiction and procedure throughout the state. Where the special courts operated full time and had a full-time judge presiding, a branch of county court was created to absorb and continue their function.

Another important change provided the machinery for the administration of the court system. One of the problems under the old system was that the caseload was uneven — heavy in some areas and light in other areas. Sometimes, too, the workload was not evenly distributed between the judges of a single area. Chapter 315, Laws of 1959, provided machinery to improve the efficiency of the courts. The chief justice of the Supreme Court was authorized to assign circuit and county judges to serve temporarily in either the circuit or county courts when needed. The 1961 Legislature took one step further and established the office of court administrator (Chapter 261).

A third major change in the court system was the abolition of the constitutional justices of the peace. This amendment was ratified by the electorate in the April 1966 election.

As reorganized in 1959, Wisconsin's court system consisted of a Supreme Court, circuit courts, county courts and municipal courts.

1977-78 Reorganization. At the election held on April 5, 1977, the electorate ratified constitutional amendments reorganizing the judicial branch. The central statement outlining the structure of the new system is contained in Article VII, Section 2 of the Constitution.

"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 Special Session the Legislature implemented the constitutional amendments by enacting Chapter 449, Laws of 1977, which provides the state with a "single level" trial court system, a court of appeals, and revised authority for the municipal courts.

Structure of the Court System. The judicial branch is headed by a Supreme Court of 7 justices elected statewide for terms of 10 years. Although primarily the appellate court for the state, the Supreme Court also has original jurisdiction for a limited number of cases of statewide concern. It is also the final authority on the state constitution.

The establishment of the Court of Appeals became effective August 1, 1978. The court consists of 12 court of appeals judges. The state is divided into 4 court of appeals districts with 3 judges elected from each district. At the initial election, each district elected one judge for a 2-year term, one for a 4-year term and one for a 6-year term. After the initial staggered election, all judges will be elected for 6-year term. The "primary" locations for the offices of the court in each district are Milwaukee, Waukesha, Wausau and Madison. The Court of Appeals is given broad jurisdiction to hear appeals from all courts of record. There are no appeals to the Supreme Court as a matter of right. The Supreme Court determines at its discretion which matters it will hear. The Court of Appeals sits in panels of 3 judges to dispose of cases on their merits, except in small

claims, municipal ordinance violation, traffic regulation violation, mental health, juvenile and misdemeanor cases, which will be heard by a single judge unless a request for a 3-judge panel is granted.

Under the reorganization, the circuit court became the "single level" trial court. County courts were abolished and the county judges were denominated as circuit judges and given all the powers, duties and benefits of circuit judges. At the conclusion of each county judge's term, the office of that branch of county court is abolished and branch of circuit court is established. Circuit court boundaries were revised so that each county will be a circuit with the exception of the following 3 combined county districts: Buffalo-Pepin, Shawano-Menominee and Forest-Florence. Circuit judges in office as of August 1, 1978, serve in the circuit courts for the counties in which they reside. The act created 13 additional judgeships and abolished 4 existing judgeships, providing the state with 190 trial judges rather than the 181 it had previously.

There are 10 judicial administration districts (previously 14), with the chief judge of each district being appointed by the Supreme Court.

Over 200 municipal justice courts have been created by cities, villages and towns. Their jurisdiction is limited.

Judges. Justices of the Supreme Court and judges of the Court of Appeals and the circuit courts are elected on a nonpartisan basis in April. When 3 or more candidates file nomination papers for an office of judgeship, a primary election is held prior to the April election. All these judges must be less than 70 years old and licensed attorneys. In addition, the Supreme Court justices, Court of Appeals and circuit court judges must have at least 5 years' experience as attorneys to qualify for office. Vacancies in the offices of judges are filled by the governor until a successor is elected. In elections held to fill vacancies, judges are elected for full terms instead of the remainder of the unexpired terms.

The 7 Supreme Court justices are elected at large; the judges of the Court of Appeals and circuit judges are elected in their respective Court of Appeals districts or circuit court districts.

The municipal justices are also elected in April but candidates for these offices need not be attorneys to qualify. They are usually not full-time positions.

Judicial Agencies. The courts are aided in their functions by numerous state agencies, composed, for the most part, of judges and attorneys.

The Supreme Court appoints a director of state courts, the state law librarian, the Board of Attorneys Professional Competence, the Board of Attorneys Professional Responsibility, and the Judicial Education Committee.

Other agencies forming a part of the judicial branch include the Judicial Commission, Judicial Council, Administrative Committee for the Court System, the Judicial Conference, and the State Bar of Wisconsin.

Their shared primary concern is to improve the organization, operation, administration and procedures of the state judicial system. Other functional areas of some of these agencies relate to raising professional standards, judicial ethics, legal research and law reform, investigating complaints of misconduct.

SUMMARY OF SIGNIFICANT WISCONSIN SUPREME COURT DECISIONS

October 5, 1976 — September 27, 1978

Bruce Feustel

LEGISLATIVE REFERENCE BUREAU

The duties and responsibilities of the Wisconsin Supreme Court have been changed significantly by the creation of the new Court of Appeals. Appellate cases will now initially be heard by the Court of Appeals unless the case "bypasses" that court. There are no appeals to the Supreme Court as a matter of right. In time, this new court should help alleviate the enormous backlog of cases in the Supreme Court.

The most recent change in personnel on the Wisconsin Supreme Court came at the spring election of 1978. Former Circuit Judge John Coffey of Milwaukee County defeated County Judge James Rice of Monroe County for the seat vacated by retiring Justice Leo Hanley.

Appellate matters before the Wisconsin Supreme Court may be presented in several ways. The court may request the parties to present oral argument in support of their respective positions. In such instances, the parties are usually limited to 30 minutes per side. Increasingly, with so many more cases being filed, the court makes its decision solely on the basis of the trial transcript and briefs (written supporting documents) presented on behalf of the respective parties.

The following summaries of decisions in volumes 74 to 85 of *Wisconsin Reports*, 2d series, are not an attempt to provide a complete report of the precise findings of the Wisconsin Supreme Court for the cases listed. Rather, the summaries give an example of some of the issues that Wisconsin's highest court has been faced with. The summaries reveal the court to be a forum where interesting, current and wide-ranging questions are being resolved.

IMPORTANT CIVIL CASES

Education

Student Rights

The chancellor of the University of Wisconsin — Milwaukee campus and the school's student association confronted one another over the right to make committee appointments in *Student Association of University of Wisconsin — Milwaukee v. Baum* (1976), 74 Wis. 2d 283. The student association authorized its president to make appointments, and he had made 2 appointments to the Physical Environment Committee. Approximately 2 weeks later, the chancellor advised the association that the appointments were illegal under university regulations, and he substituted 2 of his own selections on the committee. Later in the controversy, the chancellor issued a directive calling for the election of 11 student committee members from 9 classifications to serve on another committee. The case came before circuit court as an action for declaratory judgment, with the circuit court dismissing the complaint. On appeal the Supreme Court scrutinized this provision of Section 36.09 (5) of the statutes:

The students of each institution or campus shall have the right to organize themselves in a manner they determine and to select their representatives to participate in institutional governance.

The court found that the right to organize and to select were intertwined. If the chancellor retained the right to specify that 2 students be elected from the dormitories, one from the graduate students, etc., the right to organize became meaningless. The Supreme Court concluded that the student association had the statutory authority to make the committee appointments.

Negative Aids

The state Supreme Court decided the fate of the "negative-aid provisions" of school district financing in *Buse v. Smith* (1976), 74 Wis. 2d 550. The controversy centered around Sections 121.07 and 121.08 of the statutes, which contained a district power equalization factor keyed to the equalized valuation of real estate for taxation purposes in a school district. Certain school districts were required to pay a portion of their property tax revenues into the general fund for

ultimate redistribution to other school districts. Thus, the payments were popularly referred to as "negative-aid" payments.

A majority of the court found these payments to be a crucial part of the taxing process and to be violative of the state constitutional provision, in Article VIII, Section 1, requiring that the "rule of taxation shall be uniform". The state could not compel one school district to levy and collect a tax for the direct benefit of other school districts. In dissent, Justices Abrahamson, Day and Heffernan felt that the applicable constitutional test was the public purpose rule, and that the negative-aid provision did not violate the rule.

Constitutional Law

Foreign Ownership Of Land

Does Wisconsin have the authority to limit nonresident alien ownership of land? The appellants in *Lehndorff Geneva, Inc. v. Warren* (1976), 74 Wis. 2d 369, contended that such a law violated a treaty between the United States and West Germany and the equal protection clauses of the state and federal constitutions.

Regarding the treaty, the Wisconsin Supreme Court found that the treaty only gave nonresident nationals of West Germany the right to lease land, and thus Section 710.02 of the statutes did not contravene the treaty. The equal protection clauses of the state and federal constitution require first the analysis of the standard of deference the court should give to the legislative distinction between nonresident aliens and others. The appellant argued that the distinction required a "compelling" governmental interest, rather than a "reasonable" explanation. Resident aliens enjoy such "heightened judicial solicitude" the court reasoned, but nonresident aliens do not have the same rights. The court found that only a reasonable purpose need be shown for the statute, and this could be found in the state's argument that:

[A]bsentee ownership of land can be potentially detrimental to the welfare of the community in which it is located and persons who are neither citizens nor residents are least likely to consider the welfare of the community in which the land is located. (page 387)

The court affirmed the judgment in favor of the defendant.

Worker's Compensation

Odd-Lot Doctrine

In *Balczewski v. Department of Industry, Labor and Human Relations* (1977), 76 Wis. 2d 487, the State Supreme Court traced the history of the odd-lot doctrine as it relates to workmen's compensation (later renamed worker's compensation).

The plaintiff was an unskilled laborer at Mendota State Hospital, where her employment required her to lift bags of wet laundry weighing about 85 pounds. On the job, she suffered a fall down a stairway which left her unable to continue her previous employment. Her spinal injury limited her physical abilities, and she needed frequent rest periods and medication.

In determining, on review, whether the Department of Industry, Labor and Human Relations correctly assessed her permanent disability at 55%, the Supreme Court examined the "odd-lot" doctrine. The doctrine had been expressed by Judge Benjamin N. Cardozo in New York State as follows:

He [the plaintiff] was an unskilled or common laborer. He coupled his request for employment with notice that the labor must be light. The applicant imposing such conditions is quickly put aside for more versatile competitors. Business has little patience with the suitor for ease and favor. He is the 'odd lot' man the 'nondescript in the labor market' Work, if he gets it, is likely to be casual and intermittent Rebuff, if suffered, might reasonably be ascribed to the narrow opportunities that await the sick and halt. (page 495)

The court found that the "odd-lot" doctrine was a rule of evidence in Wisconsin. Once the claimant shows *prima facie* proof of 100 percent disability on the basis of future employability, the burden shifts to the employer, who must rebut that proof and show that "suitable work is regularly and continuously available to the claimant". In *Balczewski* the claimant made the

prima facie showing of 100 percent disability, but the state argued that the testimony of Dr. Millen was an adequate basis to show available work. Dr. Millen had testified that Bernice Balczewski could work in a supervisory position. The Supreme Court determined, however, that Dr. Millen was not an expert in the job market, that his testimony was speculative and that the testimony had nothing to do with the specific ability of the claimant to get stable employment. The court reversed the judgment of the circuit court with direction to remand to the department for a further hearing, at which hearing the employer had the burden as specified in the opinion.

Benefits For Posthumous Illegitimate Child

Does the Wisconsin workmen's compensation act authorize the payment of death benefits to an illegitimate posthumously born child? The dispute, the Wisconsin Supreme Court noted in *Larson v. Department of Industry, Labor and Human Relations* (1977) 76 Wis. 2d 595, was a question of law, not of fact. First, the court noted that an illegitimate child can be a dependent qualifying for death benefits under workmen's compensation law. The rights of posthumously born children were not so recognized. The court found that the legislature had determined that posthumously born children could receive additional benefits but not primary benefits. The issue, according to the court, was clearly answered by a legislative policy decision, and there was no authority for any contrary judicial statutory construction.

Municipalities

Home Rule

The authority of municipalities to legislate is controlled in large part by Wisconsin's municipal home-rule amendment to the Wisconsin Constitution. Article XI, Section 3, provides that:

Cities and villages organizes pursuant to state law are hereby empowered, to determine their local affairs and government, subject only to this constitution and to such enactments of the legislature of statewide concern as shall with uniformity affect every city or every village....

In *State ex rel. Michalek v. LeGrand* (1977), 77 Wis. 2d 520, one of the issues raised was whether the city of Milwaukee had the authority to enact an ordinance providing for withholding of rent payments, specifying that the city building inspector was to deposit the payments into an escrow account until there were no building or zoning code violations on the premises. The Wisconsin Supreme Court examined the home-rule amendment and noted that areas of legislative enactment fell into 3 categories:

(1) Those that are exclusively of state wide concern; (2) those that may be fairly classified as entirely of local character; and (3) those which it is not possible to fit...exclusively into one or the other of these two categories. (page 527, citations omitted)

In the third category, referred to as the "mixed bag" in Justice Robert Hansen's opinion for a unanimous court, there are issues that are both of a local nature and of statewide concern. Then, it is necessary to examine which concern is paramount. In *LeGrand*, the court thought the ordinance clearly was paramourntly of local concern and, therefore, authorized by the home-rule amendment.

Direct Legislation

The recent national interest in California's Proposition 13 reflects, in part, a desire on the part of many people to have a direct input on the laws that affect them. The case of *State ex rel. Althouse v. Madison* (1977), 79 Wis. 2d 97, reflected a similar interest on the part of certain Wisconsin citizens.

In the city of Madison, a petition, with over 8,500 signatures, and a document entitled "Fair Rent Ordinance" were filed with the city clerk. They sought action under Section 9.20 of the statutes. Subsection (1) of that section provides that:

9.20 Direct Legislation. (1) A number of electors equal to at least 15 percent of the votes cast for governor at the last general election in their city may sign and file a petition with the city clerk requesting that an attached proposed ordinance or resolution, without alteration, either be adopted by the common council or referred

to a vote of the electors. The person filing the petition shall designate in writing a person or organization to be notified of any insufficiency or improper form under sub. (3).

The city clerk forwarded the petition, with the proposed ordinance attached, to the Madison Common Council. Under Section 9.20 (4) of the statutes, the council had 30 days either to pass the ordinance or submit it to the voters at the next spring or general election. However the council did not act until about 9 months later, when, after receiving advice from the city attorney that the proposed ordinance would be unconstitutional, the council adopted a resolution removing the proposed ordinance from the ballot.

The petitioners then brought this mandamus action to require the council to put the ordinance on the ballot. The trial judge felt the council did have the discretion to refuse to put on the ballot a proposed ordinance on the ground that the proposed ordinance was arguably invalid or unconstitutional. On review, the Wisconsin Supreme Court disagreed. Justice Heffernan, writing for a unanimous court, concluded that the only permissible questions to be raised by the council or the trial judge related to "whether the ordinance was legislative in nature, whether it proposed new legislation and whether it was in proper form". The court reviewed the standards for mandamus actions and determined that the council's duties under Section 9.20 (4) of the statutes were of a "mandatory, ministerial, nondiscretionary nature". On the basis of previous decisions, the court concluded that mandamus was appropriate.

The court did discuss further the new question of whether the possible unconstitutionality of the proposed ordinance overrode the other considerations. The court state the question as:

Whether the council has the discretion to refuse to enact or place on the ballot a proposed initiated ordinance on the ground that it appears to the council to be arguably invalid or unconstitutional. (page 109)

The court reviewed the law in Wisconsin and other states, concluding that if there was no previous specific adjudication of unconstitutionality, the electorate under the direct legislation statute may require that an ordinance be placed on the ballot, regardless of any doubts raised as to the ordinance's validity or constitutionality.

Courts

Jurisdiction

Does a state small claims court have the jurisdiction to hear actions under the federal Civil Rights Act?

The plaintiff in *Terry v. Kolski* (1977), 78 Wis. 2d 475, brought an action, based on 42 United States Code Section 1983, in the county court as a small claims action. The basic question, according to the majority opinion in *Terry* was whether Wisconsin courts had concurrent jurisdiction with federal courts to hear a cause of action under 42 U.S.C. 1983. Two considerations were considered crucial:

The nature of our federal system of government and the determination of whether the Congress by statute vested exclusive jurisdiction of sec. 1983 actions in the federal courts. (page 482)

Regarding the federal system, the court noted the mandate of the U.S. Constitution that federal causes of action must be enforced in state courts, unless exclusive jurisdiction is given to the federal courts.

The court then scrutinized the federal statute in question, 42 U.S.C. 1983. No exclusivity of jurisdiction was found within the statute itself. The original federal provision, relating to civil rights deprivation, did provide for federal courts to be the sole arena for suits under the provision. But, the court noted, an 1871 revision by the U.S. Congress withdrew the exclusive jurisdiction language. The court went on to find that the small claims court had jurisdiction to hear the action.

The dissent in *Terry* found the majority's argument unpersuasive. In particular, Justice Robert Hansen felt that the 1871 revision deleted language relating to the proper forum for the actions, but did not provide new language specifying what courts would have jurisdiction. He cited the general rule that "... it will not be inferred the Congress, in revising and consolidating the laws, intended to change their effect unless such intention is clearly expressed". Finding no such

clear expression of change, the dissent concluded that 42 U.S.C. 1983 should be heard exclusively in federal courts.

Estates

Intent Of Bequest

The ultimate object of will construction is the determination of the intent of the testator or the testatrix. That determination is often a difficult task, as was the situation in *In re Estate of Ganser* (1977), 79 Wis. 2d 180.

In the *Ganser* case, the controversy centered around the 17th clause of Alma Ganser's will, which provided that:

I am presently the owner of a farm in the Township of Middleton, County of Dane, State of Wisconsin. In the event I own said farm, or any part thereof at the time of my death, I give, devise and bequeath the residue of my estate to my trustees hereinafter named to administer and distribute as hereinafter set forth.

The net income of the trust (other than is provided in Clauses Eleventh and Twelfth of this Will) shall be paid, in installments convenient to my trustees and at least annually, and the corpus of the trust upon termination thereof shall be paid or delivered to the following for use by them exclusively for the purposes of their respective organizations within the State of Wisconsin only and only as follows:

(1) One-half to Madison General Hospital Medical and Surgical Foundation, Inc., located at Madison, Wisconsin.

(2) One-half to Marquette University, located at Milwaukee, Wisconsin, for its Medical School.

'In the event either of the legatees, immediately above named in this clause, is for any reason [unable] or unwilling to accept the legacy provided, the legacy which such beneficiary would have otherwise received shall go to the other legatee.

At first glance the intent seems to be quite clear. The problem occurred because the Medical School at Marquette University severed its formal ties with the university in 1967 in order to receive state aid. The will in question was executed in 1962 and Alma Ganser dies in 1973.

Madison General Hospital, the appellant in this case, contended that at the time of the death of the testatrix, Marquette University had no medical school and, therefore, all of the income of the trust should go to Madison General Hospital pursuant to the last paragraph of the 17th clause. Marquette University and the Medical College claimed a one-half portion to be used in joint medical programs in a manner they thought would be in keeping with the intent of the bequest.

The trial court concluded that the University, because of the joint programs, was able to accept the bequest within the terms of the will. On review, the Wisconsin Supreme Court agreed. The court noted the change in circumstances (formal split of the Medical College from the University) occurred after the execution of the will, and stated that nothing in the will specified what to do in such circumstances. The court traced the history of the Medical College and Mrs. Ganser's personal history, and determined:

[T]hat despite the 1967 separation, the Medical College constitutes its [the University's] Medical School within the meaning intended by Mrs. Ganser. (page 193)

Negligence

Rescue Doctrine

Various questions of negligence were before the court in *Cords v. Anderson* (1977), 80 Wis. 2d 525.

In this much publicized case, the plaintiffs were with a group of 4 couples visiting Parfrey's Glen, a state scientific area operated by the Department of Natural Resources. They arrived at noon, and spent the day walking in the area, eating sandwiches and drinking some beer they had

brought along. A park ranger had instructed them to empty their beer supply, although they later had additional beer that the park ranger had not seen.

They stayed until the evening, making a campfire at their picnic site. At some point, Norina Boyle left the campfire. After she left the site, the group heard a noise that sounded like a falling object. Various members of the group went to investigate. Sue Henry and Jane Cords went on a trail that Ms. Cords had been on earlier that day. Both had serious falls: Sue Henry suffering a skull fracture; and Jane Cords suffering permanent paraplegia, which will confine her to a wheelchair for the rest of her life.

Various judgments after trial were entered against Floyd Anderson, the manager of Parfrey's Glen. He was found to be acting in good faith, so the state, under Section 270.58 of the statutes, was required to pay the judgments.

On appeal, various questions were raised. The court found that Mr. Anderson, as park manager, had a duty either to warn the public about the dangerous conditions on the trail or to advise his superiors about the conditions. The court felt that the duty was so clear, that it was ministerial, not discretionary, in nature.

In determining the percentage of damages to assess to various parties, the trial court assessed 40 percent negligence to Ms. Cords regarding her injury and 60 percent negligence to Ms. Henry (and thus no recovery) regarding her injury, finding that the rescue doctrine did not apply. On appeal, the Supreme Court found the trial court to be in error. The Supreme Court differentiated the emergency doctrine from the rescue rule, and cited a statement of the rescue rule as:

Under what is commonly referred to as the rescue doctrine, conduct which might otherwise be considered contributory negligence may not be so considered where a person is injured in attempting to save others from imminent danger or personal injury or death. Persons are held justified in assuming greater risks in the protection of human life where they would not be under other circumstances.

One is not guilty of contributory negligence in exposing himself to danger of injury in order to rescue another from imminent danger of personal injury or death, if, under the same or similar circumstances, an ordinary prudent person might so expose himself, or, as often expressed, if the act of intervention is not performed under such circumstances as would make it rash or reckless in the judgment of ordinarily prudent persons. This is true even though the person attempting the rescue knows it involves great hazard to himself without certainty of accomplishing the attempted rescue and even though in attempting such rescue he thereby imperils his own life. (page 543, citation omitted)

The court then viewed the actions of Ms. Cords and Ms. Henry as rescuers, and found their actions to be reasonable under the rescue doctrine. The Supreme Court decided that the trial court should have considered the rescue rule, and the judgment dismissing the action of Sue Henry was reversed.

Justice Connor Hansen wrote a strongly worded dissent. Regarding the park manager's duty, he noted that "the accommodation of competing interests inherent in decisions regarding the safety of public premises is discretionary". Also, he felt that the evidence showed that Anderson's superiors were quite aware of the conditions at Parfrey's Glen and, therefore, Anderson had no duty to remind them of those conditions. Justice Hansen also felt the rescue rule had been applied improperly and generally noted that the holding in this case would have dangerous ramifications for the state.

Juveniles

Confidentiality Of Juvenile Police Records

The Wisconsin Supreme Court often has to reconcile situations where different public policies conflict. In *State ex rel. Herget v. Circuit Court for Waukesha County* (1978), 84 Wis. 435, the Supreme Court had to reconcile the right of plaintiffs to discover certain facts necessary to bring a lawsuit versus the nondisclosure provisions of the children's code.

In a tort action against the juvenile, his parents and the insurer, the plaintiffs in *Herget* sought

to discover certain juvenile police records. The juvenile moved the circuit court for a protective order, and the circuit court held the police department records were subject to discovery. The plaintiffs scheduled a deposition of a police officer and the defendant sought a writ of prohibition to prevent the deposition.

On examining the request for the writ, the Supreme Court noted that Section 48.26 (1) of the statutes provides that "peace officers' records of children shall not be open to inspection or their contents disclosed except by order of the court". The question, therefore, was in what situation may a court properly order discovery of juvenile police reports.

The Supreme Court noted that the interest of the juvenile must be given paramount consideration and that confidentiality is essential to rehabilitation of delinquent children. Thus the Supreme Court found that the circuit court could order the discovery of juvenile police records only after making an *in camera* (before the judge in chambers or in the courtroom when all spectators have been excluded) review of the records. The circuit court would have to:

[B]alance two private and two societal interests: the victim's interest in recovering for the damage he has suffered and the juvenile's interest in rehabilitation and in avoiding the stigma of revelation; the redress of private wrongs through private litigation and the protection of the integrity of the juvenile justice system. (page 453).

The Supreme Court disapproved the discovery order, denied the writ and directed the circuit court to prohibit discovery unless the court, using the procedure mandated by the Supreme Court, found it was allowable.

IMPORTANT CRIMINAL CASES

Constitutional Law

Sex Crimes Commitments

In State ex rel. Terry v. Schubert (1976), 74 Wis. 2d 487, the appellant challenged the constitutionality of the procedure for review of sex crimes commitments. The appellant had been convicted of 2 counts of rape and one count of theft and, pursuant to a court-ordered examination, had been determined to be a sex deviate in need of specialized treatment. He brought a habeas corpus proceeding subsequent to his mandatory release date for the theft charge, claiming that he was not suffering any mental aberrations. He felt that either he should be discharged or he should get a jury determination on the question of confinement. The trial court dismissed the writ. On appeal, the Wisconsin Supreme Court found merit in the appellant's argument. Justice Hanley, writing for the court, found that persons under the sex crimes law were entitled to the following minimal requirements:

(1) [W]ritten notice of the hearing; (2) disclosure of the evidentiary material which will be considered by the hearing body; (3) opportunity to be heard in person and to present witnesses and documentary evidence; (4) the right to confront and cross-examine witnesses, in the absence of good cause for not allowing confrontation; (5) a neutral and detached hearing body; and (6) a written statement by the fact finders as to the evidence relied on and reasons for refusing discharge. (page 497)

The court ordered that the appellant receive a hearing which met these requirements.

The secretary of health and social services petitioned the U.S. Supreme Court for review of the case and, on review, that court granted the petition, ordered that the judgment be vacated and directed the Wisconsin Supreme Court to determine whether the judgment was based on the federal or the state constitution. In *State ex rel. Terry v. Percy* (1978), 84 Wis. 2d 693, the Wisconsin Supreme Court found that the federal constitution was the basis for its decision and reiterated its previous holding.

Miranda Rights

The United States Supreme Court decision in *Miranda v. Arizona* (1966), 384 U.S. 436 is probably the most famous judicial decision of recent times. In almost every television or movie depiction of an arrest scene, the person who is being arrested is being read his *Miranda* rights (right to remain silent, right to counsel, etc.).

Subsequent to *Miranda*, the Wisconsin Supreme Court found in several cases that it was constitutional error to allow testimony at trial relating to the defendant's silence while in custody. In the case of *Reichoff v. State* (1977) 76 Wis. 2d 375, the court found that the prosecutor had asked 2 witnesses questions relating to the defendant's silence and had raised the idea again in his closing argument. The court also concluded that the constitutional error was prejudicial (not harmless error) to the defendant, noting the repetition of prosecutor's reference to the silence.

Evidence

Prior Crimes

In a criminal proceeding, is it proper for a judge to allow admission of evidence of prior crimes committed by a defendant? The Wisconsin Supreme Court faced this question in *Sanford v. State* (1977) 76 Wis. 2d 72. The defendant in the case was charged with rape and the trial court admitted testimony regarding a previous incident, in the same area in Milwaukee as the rape was committed, involving a forced sexual encounter. The victim of the previous incident identified the defendant as the perpetrator. The court instructed the jury that it could consider the evidence of the prior incident only as to identity and method, and not to the defendant's predisposition to commit rape.

On review, the state Supreme Court noted the evidence of other crimes, wrongs or acts is not excludable when offered for the limited purpose of showing identity. The prior incident was also found to meet the test of probativity as a "prior offense of a like or unique nature". The court further looked at the passage of time between incidents and balanced remoteness of time against the uniqueness of the prior act. In *Sanford*, the Supreme Court agreed with the trial court "that the evidence of the prior incident, one and one-half years earlier in point of time, was not so remote in time as to render it without probative value".

Continuance

Surprise

Is surprise a proper basis for the granting of a continuance? In *Angus v. State* (1977), 76 Wis. 2d 191, the defendant was accused of committing incest with his 16-year-old daughter. At the preliminary examination, the daughter testified that the act of sexual intercourse took place in the early morning of August 3, 1974. The defendant filed a timely notice of alibi and had witnesses assembled who would testify to his whereabouts on the evening of August 2 and the early morning of August 3. The daughter, on the day of the trial, informed the prosecution that she would testify that the actual date of the act was the early morning of August 2, not August 3. After defense counsel was informed of the change, he requested a continuance, which was denied.

The Supreme Court noted that the question of whether to grant a continuance was discretionary with the trial judge. In determining whether the discretion had been abused, the court noted that there are 3 qualifications which must be met for a denial of a continuance based on surprise to constitute an abuse of discretion:

1. There must have existed actual surprise; thus, the development must have been something which the party who sought the continuance could not reasonably have been expected to foresee or anticipate.
2. Where the surprise is caused by unexpected testimony, the party who sought the continuance must have made some showing that contradictory or impeaching evidence could probably be obtained within a reasonable time.
3. The denial of the continuance must have been, in fact, prejudicial to the party who sought it". (page 196, citations omitted)

The majority noted that the first 2 factors were arguably met, but felt that record failed to show any actual prejudice to the defendant and upheld his conviction. In dissent, Justice Abrahamson noted that the defense in this case was based on the idea that the defendant had evidence to show he was elsewhere at the time the crime was alleged to have occurred, and that the only fair interpretation of the alibi statute was to require the state to give timely information on a change of the date of the offense. Justice Abrahamson stated that the U.S. Supreme Court had recently emphasized that the constitutionality of alibi statutes depended on reciprocal rights of discovery, and in this case, the defendant was truly prejudiced by changing the time of the crime, for which time he had advised the state that he had an alibi.

Change of Venue

Pretrial Publicity

The issue of pretrial publicity in a murder case is an important consideration for a court. It usually is raised for a trial court on a motion for a change of venue: an effort by the defense to have the trial held in an area where the case has not been subject to extensive reporting by the news media and where, the defense argues, the members of the community have not already decided that a particular person is guilty or innocent.

In *Briggs v. State* (1977), 76 Wis. 2d 313, a pretrial publicity question was raised. During the trial, the defendant's motion for change of venue was denied and, upon appeal, the Wisconsin Supreme Court reviewed the trial court's decision.

The Supreme Court first noted the relevant factors for consideration:

The inflammatory nature of the publicity; the degree to which the adverse publicity permeated the area from which the jury panel would be drawn; the timing and specificity of the publicity; the degree of care exercised, and the amount of difficulty encountered, in selecting the jury; the extent to which the jurors were familiar with the publicity; and the defendant's utilization of the challenges, both peremptory and for cause, available to him on voir dire. In addition, the courts have also considered the participation of the state in the adverse publicity as relevant, as well as the severity of the offense charged and the nature of the verdict returned. (page 326, citations omitted)

The court noted that there was a considerable amount of publicity in the *Briggs* case; accompanying the motion at trial were 12 newspaper articles, 17 transcripts of radio broadcasts and 7 transcripts or tapes of television broadcasts. The key here was whether the reports tended to editorialize, whether they "attempted to influence public opinion against the defendant". Also, the involvement of the state regarding the dissemination of pretrial publicity was minimal. The Supreme Court lauded the trial judge for his examination of the articles and broadcasts and noted great care had been taken in the jury selection. The reviewing court found no abuse of discretion because of the failure to grant the change of venue.

Probation

First-Degree Murder

In one of the more controversial cases of recent years, the Supreme Court affirmed an order of a trial judge placing a woman on probation who had been convicted of first-degree murder. In *State v. Wilson* (1977), 77 Wis. 2d 15, the trial judge had sentenced the defendant to life imprisonment, but had stayed the sentence and placed her on probation for 15 years.

On review, the State Supreme Court stated that the legislature had traditionally used 2 methods to designate which crimes were not subject to probation: one method was to exclude the possibility of probation in the statute which specified the penalty for a specific crime and the other method was to provide an exception for the crime to the actual probation statute. Neither of those provisions was applicable to first-degree murder, and other arguments were found unpersuasive, so the court upheld the order of the trial judge. The court took great pains to invite the legislature to review the question, noting that this was a case of first impression in Wisconsin, and that policy choices involved were within the legislature's domain. Indeed, within a short period of time after the court's decision, 6 bills were introduced which contained "no probation" provisions for various major crimes including murder and kidnapping, although none of those bills was successful.

Procedure

John Doe Proceedings

The case of *State v. O'Connor* (1977), 77 Wis. 2d 261, examined the propriety of allowing a special agent of the Department of Justice to attend a John Doe proceeding.

In Wisconsin, a John Doe proceeding is held before a judge. The judge has the authority to require the examination to be secret. If from testimony adduced at a John Doe hearing it appears that there is probable cause to believe a crime has been committed, then the complaint shall be reduced to writing and an arrest warrant shall be issued.

In the case presented to the Supreme Court in *O'Connor*, the judge had issued a secrecy order and had also allowed the presence of a special agent at the proceeding. The court first noted that the secrecy provision was a privilege accorded to witnesses, not to the person ultimately charged with a crime on the basis of information given during the John Doe proceeding. Also there was no claim that the special agent used the information he attained in a manner prejudicial to the defendant. The court concluded that no grounds existed to show impropriety on the part of the state.

No further examination of the point was necessary, but the court did go on to describe the reasons justifying secrecy at a John Doe proceeding:

1. To keep from an unarrested defendant the knowledge which would suggest escape;
2. To prevent defendants from collecting perjured testimony for the trial;
3. To prevent those interested in thwarting the inquiry from tampering with prospective testimony or secreting evidence.
4. To render witnesses more free in their disclosures.
5. To prevent testimony which may be mistaken or untrue or irrelevant from becoming public. (page 279)

Jury Instructions

Manslaughter

A key factor in many jury trials is the determination of jury instructions. The guidelines given to a jury, and the wording contained in those guidelines, can be crucial. The criterion that a judge must consider in deciding whether or not to allow an instruction was a central issue in *State v. Mendoza* (1977), 80 Wis. 2d 122.

A number of issues were raised on the appeal from the judgment finding Mendoza guilty in circuit court of 2 counts of first-degree murder. Regarding the issues relating to jury instruction, the trial court had allowed only instructions relating to first-degree and second-degree murder. The defendant had sought additional requests relating to self-defense, manslaughter by causing death of another unnecessarily in the exercise of self-defense and manslaughter in the heat of passion; but these requests had been denied.

For the determination of what should be submitted to the jury, the state urged the court to adopt a "totality of the evidence" test to see if an instruction was warranted. This approach, the Wisconsin Supreme Court found, would result in the court invading the province of the jury. The question was:

[W]hether a reasonable construction of the evidence will support the defendant's theory "viewed in the most favorable light it will 'reasonably admit of from the standpoint of the accused'". If this question is answered affirmatively, then it is for the jury, not for the trial court or this court, to determine whether to believe defendant's version of events. (page 153, citations omitted)

The court reviewed the defendant's testimony and that of one of the state's witnesses. Although the court found that instructions for complete self-defense and manslaughter-heat of passion should not have gone to the jury, a majority of the court found that the jury should have been instructed as to manslaughter — unnecessary exercise of self-defense. The judgment and orders were reversed and a new trial was ordered.

SUPREME COURT

Chief Justice: BRUCE F. BEILFUSS

Justices: NATHAN S. HEFFERNAN

CONNOR T. HANSEN

ROLAND B. DAY

SHIRLEY S. ABRAHAMSON

WILLIAM G. CALLOW

JOHN L. COFFEY

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

Clerk: Marilyn L. Graves, 266-1880.

Court Commissioners: STEPHEN W. KLEINMAIER, JAMES W. RECTOR, JR., JOSEPH M. WILSON, 266-7442; WILLIAM MANN, 266-6708.

Mailing Address: Room 231 East, State Capitol, Madison 53702.

Telephone: (608) 266-1880.

Number of Positions: 7 justices, 44 employes.

Total Budget 1977-79: \$2,729,400.

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

Organization: The Supreme Court consists of 7 justices. Justices are 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 the conduct of 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.

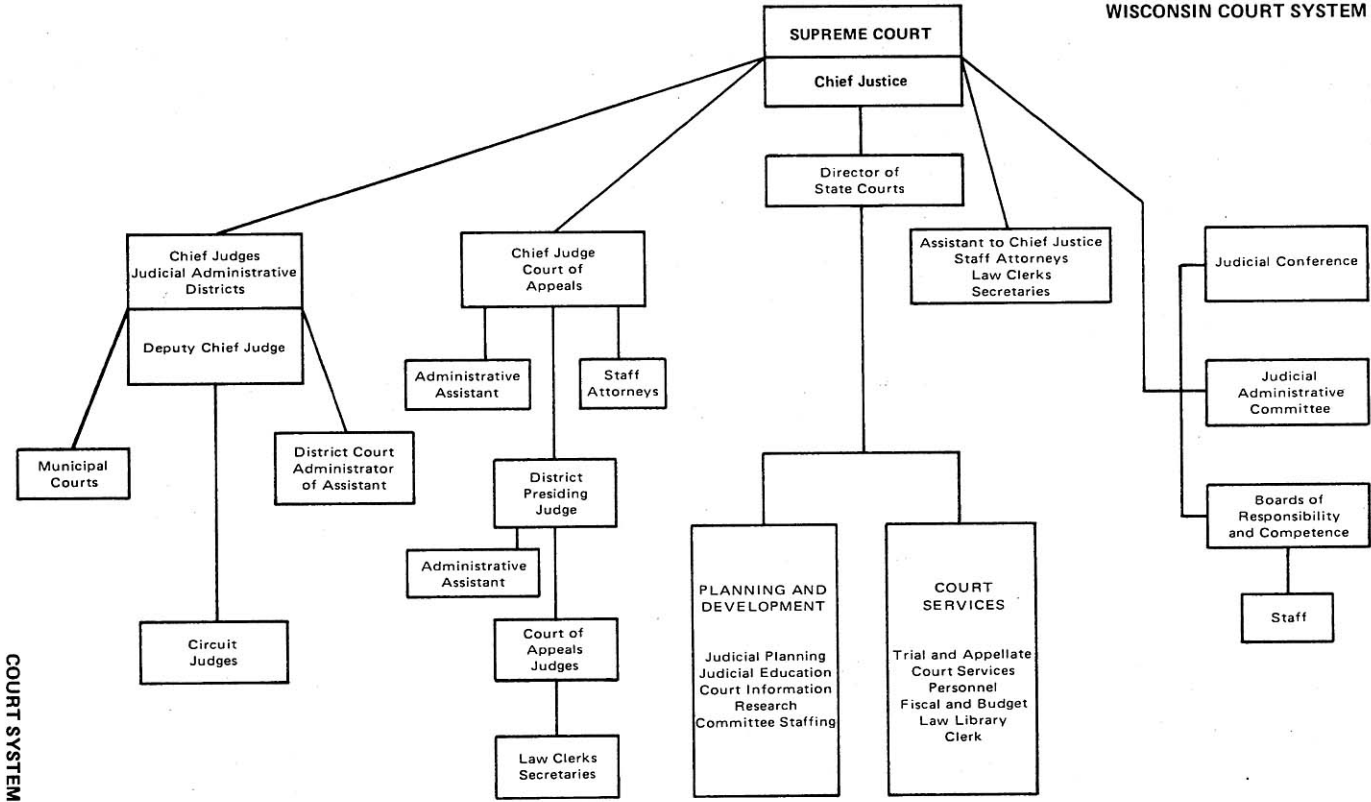
The courtroom and offices of the court are located in the State Capitol. The justices' salaries are fixed by statute. The current annual salary for the chief justice is \$55,299 and for the other 6 justices it is \$48,919.

The Supreme Court is in session for oral arguments each month 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 function, 4 commissioners who assist the court in its judicial function, 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 when a federal question, allowing an appeal to the U.S. Supreme Court, is raised. 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. No testimony is taken; the cases are decided on the basis of printed briefs and, in some cases, on oral argument. The need for oral arguments by counsel is determined by the court. The court takes up cases in the order briefs are filed. Criminal cases are given preference. All cases are prescreened to determine which need oral arguments. Both oral argument cases and "on briefs only" cases are placed on a calendar which is heard every four weeks. Decisions are in writing and are published in the *Wisconsin Reports* and in the *North Western Reporter*. During the 1977-78 fiscal year, 895 new cases were filed, 668 cases were terminated, and 972 cases were pending at the end of the year.

WISCONSIN COURT SYSTEM



COURT SYSTEM

JUDICIAL BRANCH: SUPREME COURT

The Constitution also 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. Such administrative authority is exercised pursuant to procedures 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 to serve temporarily in other circuit courts: 1) when a calendar is congested; 2) when a judge is on vacation, disqualified, or unable to act; or 3) when a vacancy in the office occurs.

DIRECTOR OF STATE COURTS, OFFICE OF

Director of State Courts: J. DENIS MORAN, 266-6828, 213 NE, State Capitol, Madison 53702.

Fiscal Officer: KEN TIMPEL, 266-6865, Room 516, 110 E. Main Street, Madison 53703.

Judicial Education: SOFRON B. NEDILSKY, 266-7807, Room 510, 110 E. Main Street, Madison 53703.

Patient Compensation: JEFFREY L. KRAVAT, 266-7711, Room 506, 110 E. Main Street, Madison 53703.

Court Information System: TERENCE E. HAHM, 266-5750, Room 804, 110 E. Main Street, Madison 53703.

Office of Planning and Research: KAREN KNAB, 266-3121, Room 613, 110 E. Main Street, Madison 53703.

District Court Administrators: District 1, RONALD WITKOWIAK, Room 500-A, Courthouse, Milwaukee 53233, (414) 278-5113; District 10, ROBERT FRYE, Room 3, 1102 Regis Court, Eau Claire 54701, (715) 839-4827.

Mailing Address: 213 NE, State Capitol, Madison 53702.

Telephone: (608) 266-6828.

Publications: Annual Judicial Statistics.

Number of Employees: 32.

Total Budget 1977-79: \$2,313,700.

Statutory Reference: Supreme Court Order, October 30, 1978.

History: The position of director of state courts was created by the Rule of Judicial Administration promulgated by the Supreme Court and issued under order dated October 30, 1978, pursuant to the administrative power vested in the Supreme Court under Article VII of the Wisconsin Constitution. This position replaces that of administrative director of courts, which was created by Chapter 261, Laws of 1961, as Section 758.19 of the statutes. The director is a member of the Judicial Council and the Wisconsin Council on Criminal Justice, and administers the Wisconsin Patients Compensation Panels.

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, he administers the nonjudicial business of the judicial system through the appointed chief judges and staff.

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 their administration. The specific functions of the director, 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; advisor to the Supreme Court on matters relating to improvements within the system; control over fiscal matters, space allocation and equipment; collection,

compilation and utilization of judicial system statistics; supervision of the Law Library and the Supreme Court clerk; administration of the Patients Compensation Panels under Chapter 655; and the performance of such other duties as the Supreme Court may, from time to time, direct.

STATE LAW LIBRARY

State Law Librarian: MARCIA J. KOSLOV.

Deputy State Law Librarian: DENNIS AUSTIN.

Technical Services Librarian: SANDRA K. DUNCAN.

Mailing Address: 310 East, State Capitol, Madison 53702.

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

Number of Employees: 4.5

Total Budget 1977-79: \$330,100.

Statutory Reference: Section 758.01.

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 its main service is 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 Wisconsin Bar.

Reference and basic research services are provided and photocopying facilities are available at a nominal cost. Through a circulation policy instituted in 1976, much of the collection is now available on an overnight or 5-day basis. The Wisconsin materials are generally 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, 3,000 reels of microfilm, and 2,000 microfiche. The holdings include:

1. Session laws and statutory codes, court reports, administrative rules, legal indexes and digests for the Federal Government and the 50 states and territories.
2. Legal and bar periodicals — 950 titles, of which 520 are current.
3. Legal treatise collection, legal encyclopedias, and a government documents section.
4. Statutes and court decisions from England and Canada.
5. Appeal papers including cases, briefs, and appendices for almost all Wisconsin Supreme Court cases and for the Wisconsin Court of Appeals.

JUDICIAL COMMITTEES AND BOARDS

Administrative Committee of the Courts

Members: CHIEF JUSTICE BRUCE F. BEILFUSS, *chairperson*; JUDGES FRANZ BRAND, LOUIS CECI, ROBERT CURLEY, WILLIAM DUFFY, WILLIAM EICH, FREDERICK FINK, DENNIS FLYNN, PAUL C. GARTZKE, WARREN GRADY, WILLIAM O'BRIEN, PETER PAPPAS, LOWELL SCHOENGARTH, DONALD STEINMETZ, THOMAS WILLIAMS; NELSON I. CUMMINGS, JR., JAMES A. DRILL, ROBERT FRYE, LAURENCE C. HAMMOND, JR., PEGGY MACKELFRESH, ROBERT PAUL, CHARLES QUIRT, LEE WELLS, NINA WEIR.

Statutory Reference: Section 758.15.

The Administrative Committee was created by the legislature and Supreme Court rule to review the administration, methods of operation, the volume and condition of business of all of the courts of the state and to advise the Supreme Court regarding the expeditious handling of judicial

matters in the future. The chief justice or designated justice serves as chairperson. The committee meets at least quarterly at the call of the chairperson and the Administrator of Courts' Office provides staff assistance.

The committee is composed of 23 members: the chief justice of the Supreme Court, or such other justice as the Supreme Court may designate; one judge of the Court of Appeals selected by the Court of Appeals; 13 circuit judges, with one judge elected by the judges of judicial administrative districts 2 to 4 and 6 to 10, two judges elected by the judges of district 5, and three judges elected by the judges of district 1; two persons selected by the Board of Governors of the State Bar; three nonlawyers (one of whom shall be an elected county official) one prosecutor, one public defender, one court administrator, and one clerk of circuit court, each appointed by the chief justice.

The Supreme Court, having first abolished the Judicial Planning Committee previously created by court rule, designated the Administrative Committee of the Courts as the judicial planning committee to perform the functions specified under federal law. These functions include: developing an annual state judicial plan to be included in the state (WCCJ) comprehensive criminal justice improvement plan and evaluating all requests by the courts of the state for financial assistance submitted to the Wisconsin Council on Criminal Justice.

Attorneys Professional Competence, Board of

Members: PETER R. DOHR, *chairperson*, PATRICK T. SHEEDY, *vice-chairperson*, JAMES E. GARVEY, JULILLY KOHLER HAUSMANN, FRANCIS KRUSE, JR., MARYGOLD SHIRE MELLI, JUDGE J. TOM MERRIAM, PAUL MORROW, MICHAEL K. MCCHRYSAL.

Director: ERICA MOESER, 266-9760.

Secretary: ROBERT O. UEHLING, 266-9760.

Mailing Address: Room 406, 110 E. Main St., Madison 53703.

Statutory Reference: Section 757.281.

History: The Board of Continuing Legal Education, created on November 21, 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 admission to the State Bar on foreign license and readmission.

Attorneys Professional Responsibility, Board of

Members: VICTOR A. MILLER, *chairperson*, JAMES J. WILLIAMSON, *vice-chairperson*; MARY V. BOWMAN, LEONARD V. BRADY, ROBERT P. HARLAND, MARJORIE KINNEY, JAMES H. PLIER, WERNER J. SCHAEFER, COURTLAND A. SPERGER.

Administrator: JOHN B. MCCARTHY

Deputy Administrator: MICHAEL G. PRICE.

Secretary: ROBERT O. UEHLING.

Administrator, Milwaukee Office: RICHARD J. CAYO.

Mailing Address: Room 406, 110 E. Main St., Madison 53703.

Telephone: Madison (608) 266-9760; Milwaukee (414) 224-4623.

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 9 members appointed by the Supreme Court. Six members are attorneys, and 3 are lay persons. The board is assisted in its duties by the professional responsibility administrator and his staff.

Agency Responsibility: Upon request of the Supreme Court or the Board of Attorneys Professional Competence, the board investigates the moral character of the persons seeking admission to the Wisconsin Bar. The board makes findings and recommendations to the Supreme Court on petitions for reinstatement of a lawyer's license to practice. The board investigates complaints of attorney misconduct and takes disciplinary action ranging from informal reprimand to the filing of a formal complaint with the Supreme Court. 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.

The Judicial Conference is made up of the justices of the Supreme Court, the judges of the Court of Appeals and judges of the circuit courts. It meets at least once a year at a place and time designated by the Administrative Committee of the Courts, subject to the approval of the Supreme Court. The administrative committee and the director of state courts plan and conduct meetings of the conference under the direction of the Supreme Court, and the chief justice presides at the meetings.

The functions of the conference are to consider the business of the administration of justice and problems pertaining thereto and to make recommendations for its improvement, to conduct instructive programs at its annual meeting to assist its members in performing their judicial duties, to provide for committees to study particular subjects relating to the administration of justice; and to adopt uniform forms necessary for the administration of proceedings under Chapters 48, 851 to 882 of the statutes.

The sections established by the conference at its organizational meeting in January 1979, are: Family and Children's Law, Probate and Mental Health, Appellate Practice and Procedures, Civil Law, and Criminal Law and Traffic. The Judicial Conference also maintains a Standing Committee on Legislation.

Judicial Education Committee

Members: CHIEF JUSTICE BRUCE F. BEILFUSS, *chairperson*; JUDGES R. THOMAS CANE, JOHN A. DECKER, MARVIN HOLZ, KENT C. HOUCK, P. CHARLES JONES, PETER PAPPAS, GARY SCHLOSSTEIN, BURTON A. SCOTT; J. DENNIS MORAN (director of state courts); ROBERT F. BODEN (dean, Marquette University Law School), ORRIN L. HELSTAD (dean, University of Wisconsin Law School).

Director of Judicial Education: SOFRON B. NEDILSKY.

Mailing Address: Room 510, 110 E. Main Street, Madison 53702.

Telephone: (608) 266-7807.

The Supreme Court created the Judicial Education Committee in 1968. Its purpose is to conduct judicial education programs for all court personnel. In 1971 the committee received a grant from the Wisconsin Council on Criminal Justice and appointed a director of judicial education.

In 1976 the Wisconsin Supreme Court issued an order establishing a mandatory judicial education program for Supreme Court justices and commissioners and trial court judges. This order, effective January 1, 1977, requires a determined number of hours of continuing education and attendance at the Wisconsin Judicial College, the Criminal Law — Sentencing Institute, and correctional facility tour.

JUDICIAL COMMISSION

Members: KAREN MERCER (attorney), *chairperson*; JUDGE WILLIAM R. MOSER (Appeals Court judge), JUDGE GORDON MYSE (circuit court judge), GORDON SINYKIN (attorney) (appointed by Supreme Court); WARREN CARRIER, REV. FRED L. CROUTHER, BRUCE HAGEN, FRANCES W. HURST, KAY W. LEVIN (public members).

Executive Director: NATALIE SMITH.

Administrative Secretary: CONSTANCE LAVINE.

Mailing Address: 1014 Tenney Building, 110 East Main Street, Madison 53703.

Telephone: (608) 266-7637.

Publications: Annual Report.

Total Budget 1977-79: \$69,100.

Statutory Reference: Section 757.83 *et seq.*

History: By Supreme Court rules effective January 1, 1972, the Court created a 9-member Judicial Commission to implement its Code of Judicial Ethics adopted in November 1967, which enumerated 16 standards of personal and official conduct for justices and judges, and 16 rules, the disobedience of which warranted sanctions. Rule 17 was adopted in 1974, effective in 1975, making the commission the repository for financial reports of judges and other members of the court personnel.

In April 1977 the Wisconsin Constitution was amended to give the Supreme Court power to reprimand, censure, suspend, or to remove any justice or judge for cause or disability under legislative enactment.

Chapter 223, Laws of 1977, directed the Supreme Court to promulgate a code of ethics for officers, employes of the judiciary, and candidates for judicial office, including filing of financial disclosure and compliance with the Judicial Code of Ethics.

Chapter 449, Laws of 1977, created the Judicial Commission, as an independent agency in the judicial branch, no longer subject to the administrative supervision of the Supreme Court, and Section 757.87 (3) created a judicial conduct and disability panel consisting of 3 Court of Appeals judges chosen by the chief judge of that court.

Section 757.83 (1) created the commission to implement the Code of Judicial Ethics promulgated by the Supreme Court under Sec. 19.45 (11) (d), Stats. It prescribes judicial ethics for officers and employes of the judiciary.

Organization: The commission is comprised of 9 members serving 3-year terms with a limit of not more than 2 consecutive full terms: 5 lay persons appointed by the governor, with the advice and consent of the Senate; one trial judge of a court of record, one Court of Appeals judge, and 2 members of the State Bar of Wisconsin, who are not judges, appointed by the Supreme Court.

Agency Responsibility: The function of the commission is to receive complaints alleging misconduct or petitions alleging permanent or temporary disability of a judge, and to determine whether there is probable cause shown therefor. Upon finding probable cause as to either category, a formal complaint or petition is filed with the Supreme Court for hearing by the 3-judge Conduct and Disability Panel. At the time of filing the complaint or petition, the commission may request that a 6-man jury panel hear the case, with an appeals court judge as the presiding officer.

After hearing by the Conduct and Disability Panel, its findings of fact, conclusions of law, and recommended disposition are submitted to the Supreme Court. After a jury trial, the presiding judge files the jury verdict with the Court, together with recommendations for appropriate action.

The Supreme Court then makes the final determination with respect to what action is to be taken as to discipline or disability of the judge involved.

JUDICIAL COUNCIL

Members: JUDGE GARY B. SCHLOSSTEIN (representing Board of Circuit Court Judges), *chairperson*; RICHARD J. WEBER (representing State Bar), *vice-chairperson*; GORDON

SAMUELSEN (designee of Attorney General), SENATOR LYNN S. ADELMAN (chairperson, Senate Judiciary and Consumer Affairs Committee), REPRESENTATIVE JAMES A. RUTKOWSKI (chairperson, Assembly Judiciary Committee), J. DENIS MORAN (director of state courts), ORLAN L. PRESTEGARD (revisor of statutes), PROFESSOR JOHN J. KIRCHER (designee of dean, Marquette University Law School), PROFESSOR WALTER J. DICKEY (designee of dean, University of Wisconsin Law School), JOHN A. FIORENZA (designee of president-elect of State Bar); JUSTICE ROLAND B. DAY (representing Supreme Court), JUDGE JOHN A. DECKER (representing Court of Appeals); JUDGES DANIEL P. McDONALD, GORDON MYSE, NATHAN E. WIESE (representing Board of Circuit Court Judges); HENRY A. FIELD, JR., ROBERT L. HABUSH (representing State Bar); FRANCIS R. CROAK, JEROME L. FOX (public members).

Executive Secretary: RICHARD R. MALMGREN.

Mailing Address: 25 West Main Street, Madison 53703.

Telephone: (608) 266-1319.

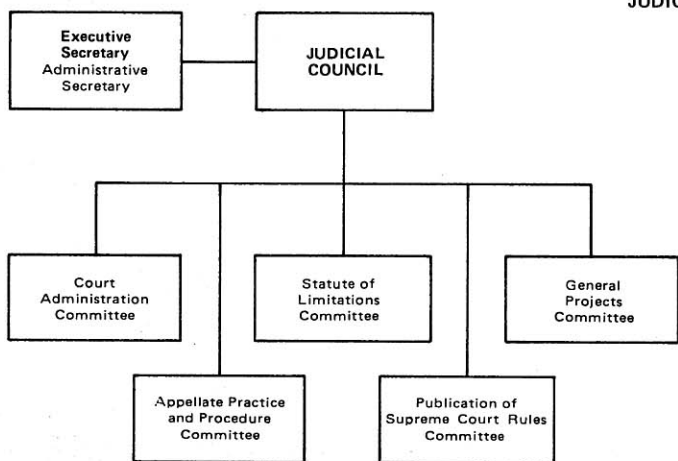
Number of Employees: 2.0.

Total Budget 1977-79: \$157,400.

Statutory Reference: Section 758.13.

History: The Judicial Council was created by Chapter 392, Laws of 1951. Chapter 247, Laws of 1967, provided for the administrator of courts or his deputy or assistant to serve as executive secretary of the council. This was changed, however, by Chapter 154, Laws of 1969, which increased the membership of the council from 17 to 18 to include the administrator of courts, but removed the provision making him executive secretary. Chapter 187, Laws of 1977, increased the council membership to 19 by adding a Court of Appeals judge. A Supreme Court order of October 30, 1978, replaced the administrator of courts with a director of state courts.

Organization: The council appoints the executive secretary outside the classified service. The 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. The 8 ex officio members or their designees are: the attorney general, the chairpersons of the Senate Judiciary and Consumer Affairs Committee and of the Assembly Judiciary Committee, the director of state



JUDICIAL COUNCIL

JUDICIAL COUNCIL

courts, the revisor of statutes, the deans of the Wisconsin and Marquette Law Schools and the president-elect of the State Bar of Wisconsin. The council membership also includes 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:

1. Study the rules of pleading, practice and procedure, and advise the Supreme Court as to changes which will simplify procedure and promote a speedy determination of litigation.
2. Survey and study the organization, jurisdiction and methods of administration and operation of all the courts of this state.
3. Recommend to the legislature any changes in procedure, jurisdiction or organization of the courts which can be put into effect by legislative action only.
4. Advise the Supreme Court and legislature on any matter affecting the administration of justice in Wisconsin.

STATE BAR OF WISCONSIN

Officers: TRUMAN Q. McNULTY, *president*; RICHARD E. SOMMER, *president-elect*; GEORGE K. STEIL, *past president*; BETTY R. BROWN, *secretary*; JOHN R. HOLDEN, *treasurer*; DON R. HERRLING, *chairman of the board*.

Board of Governors: *District 1:* ROBERT F. LEHMAN; *District 2:* JACKSON M. BRUCE, JR., JOHN A. FIORENZA, FRANKLYN M. GIMBEL, E. CAMPION KERSTEN, CHARLES W. MENTKOWSKI, JAMES J. MURPHY, C. JAMES RIESTER, DAVID A. SAICHEK, PATRICK T. SHEEDY, MICHAEL R. WHERRY; *District 3:* TIMOTHY M. DEMPSEY; *District 4:* ARDEN A. MUCHIN; *District 5:* ERNEST O. HANSON; *District 6:* DON TIKALSKY; *District 7:* MYRON E. LAROWE; *District 8:* ARDELL W. SKOW; *District 9:* JOHN H. BOWERS, MILO G. FLATEN, JR., DONALD L. HEANEY, EARL H. MUNSON, JR.; *District 10:* THOMAS B. MACKENZIE; *District 11:* EDWARD M. CONLEY; *District 12:* JAMES R. CRIPE; *District 13:* ALDWIN H. SEEFELDT; *District 14:* RICHARD A. BOLTZ; *District 15:* WILLIAM E. DYE; *District 16:* GEORGE A. RICHARDS; *Young Lawyers Division:* RICHARD B. CHERNOV; *nonlawyer, nonvoting members:* BARBARA BOUFFARD, CATHERINE CONROY, MANUEL GARCIA-NUNEZ.

Executive Director: STEPHEN L. SMAY.

Mailing Address: P.O. Box 7158, 402 W. Wilson Street, Madison 53707.

Telephone: (608) 257-3838.

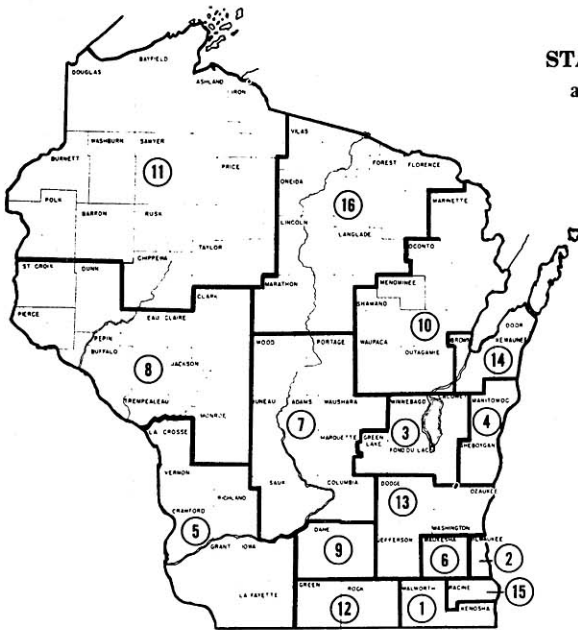
Publications: Notebooks, 3-ring binders, and hard-cover books, variously priced, issued by Advanced Training Seminars Division.

History: On June 22, 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 Board of Governors, consisting of the officers, 29 members selected by the members of the State Bar from the 16 districts of the state, and the president of the Young Lawyers Division. Three nonlawyers appointed by the Supreme Court have floor privileges without vote. The Board of Governors selects the executive director and the chairman of the board.

The State Bar consists of all attorneys and judges entitled to practice before the state courts. Attorneys are admitted to the bar by the full court or by a single justice of the Supreme Court. As of July 1978 there were nearly 11,000 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, is a charitable, educational and research foundation of the State Bar, serving as an adjunct of that organization, and provides public law education.



STATE BAR DISTRICTS
as promulgated in 1972

Functions of the Bar:

1. Work toward raising professional standards, improving the administration of justice, providing legal assistance for those unable to pay for it, and furnishing continuing legal education to lawyers through its advanced training seminars division.
2. Sponsor an extensive program of legal research into law reforms.

COURT OF APPEALS

Number of Positions: 12 judges, 36 employees.

Total Budget 1977-79: \$1,854,953.

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

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

Organization: The Court of Appeals consists of 12 judges. The court is divided into 4 districts, with 3 judges elected from each district. Judges are elected for 6-year terms at the nonpartisan April election. Only one judge may be elected in a district in any year. The term of office begins on August 1 next succeeding each election and terminates on July 31. 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 the administrative head of the entire court.

The court sits in panels of 3 judges to dispose of cases on their merits except for certain categories of cases that can be disposed of by one judge.

The judges' salaries are fixed by statute. The current annual salary is \$44,872.

The clerk of the Supreme Court is also the clerk of the Court of Appeals. The court's staff includes 4 staff attorneys and an administrative assistant for each district, one of whom is a member of the clerk's staff. Each judge has a private secretary and a law examiner.

JUDGES OF THE COURT OF APPEALS MARCH 1979

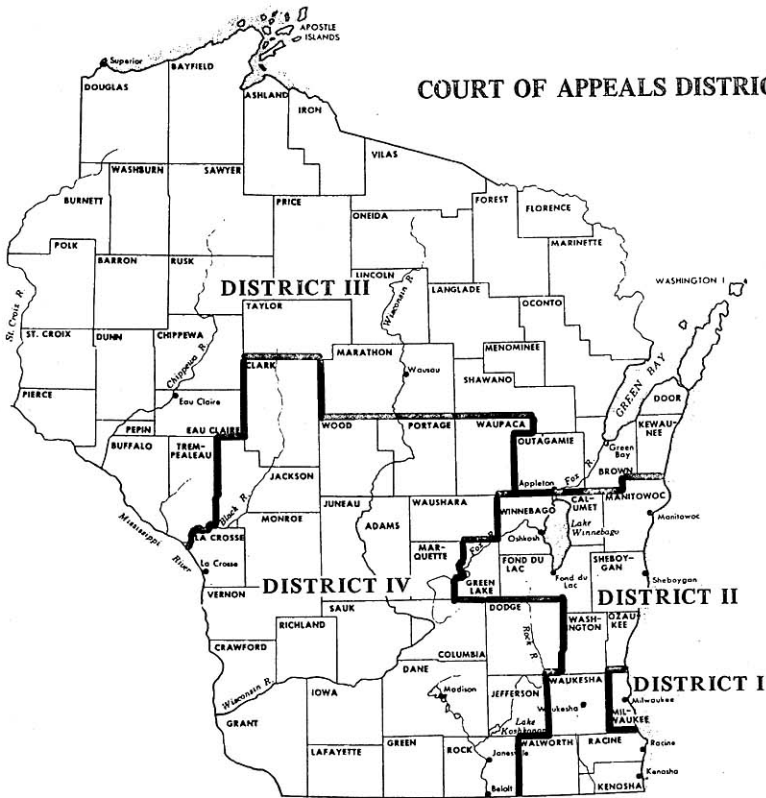
District	Circuits in District	Court Location	Judges	Term Expiration*
I	Milwaukee	Milwaukee	William R. Moser Robert C. Cannon John A. Decker	1980 1982 1984
II	Kenosha, Racine, Walworth, Waukesha, Washington, Ozaukee, Sheboygan, Manitowoc, Fond du Lac, Green Lake, Winnebago and Calumet	Waukesha (also Fond du Lac, Racine)	Harold M. Bode Richard S. Brown Clair H. Voss	1980 1982 1984
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)	John P. Folley Robert W. Dean W. Patrick Donlin	1980 1982 1984
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)	Charles P. Dykman Martha J. Bablitch Paul C. Gartzke	1980 1982 1984

Source: Official records of the Elections Board; Chapters 187 and 449, Laws of 1977.

*Constitutional amendment, implemented by Chapters 187 and 449, Laws of 1977, created the Court of Appeals and provided for staggered terms of office which begin on August 1 and expire on July 31. The above judges were elected in April 1978.

Functions: The Court of Appeals has appellate 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 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.

No testimony is taken in the Court of Appeals. The court disposes of cases brought to it on appeal on the record made in the trial court, with printed briefs. The need for oral arguments by counsel is determined by the court. The court 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. All cases are prescreened to determine which need oral arguments. Both oral argument cases and on briefs only cases are placed on a regularly issued calendar. Decisions are in writing. A 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*.



CIRCUIT COURTS

State Funded Positions: 179 judges, 191 employes, August 1, 1978. 190 judges, 202 employes, January 1, 1980.

Total Budget 1977-79: \$24,887,825.

Statutory References: Article VII, Section 2, 6-9, *Wisconsin Constitution*, Chapter 753, Statutes.

The circuit court is the trial court of general jurisdiction under the state 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 that Pepin and Buffalo Counties comprise one circuit, Menominee and Shawano Counties comprise one circuit and Forest and Florence Counties comprise one circuit. Thus, there are 69 judicial circuits. Where judicial business is heavy, a single circuit may have several branches of court with a judge presiding in each branch. There are presently 32 multibranch circuits. Under Chapter 449, additional judgeships were created while several were deleted. As of August 1, 1978, there are 179 circuit judgeships; by 1980 there will be 190 judgeships.

Circuit judges are elected on a nonpartisan basis for a 6-year term at the April election. The share of the 1978-79 annual salary of judges paid by the state is \$36,151. Counties are authorized to pay additional supplements but the total state and county salary cannot exceed \$42,957 in 1978-79. Commencing July 1, 1980, all circuit judges in the state will receive a salary from the

state equal to the midpoint of executive salary group 6. County supplements at this time will no longer be permissible. Salaries for court reporters are paid for entirely by the state. Travel expenses for both the judges and court reporters are paid by the state. 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 COURTS

Circuits*	Court Location	Judges	Term Expiration
April 1979			
Adams	Friendship	Raymond E. Gieringer	July 31, 1985
Ashland	Ashland	William E. Chase	July 31, 1984
Barron	Barron	Frederick E. Van Sickle	1st Mon. Jan. 1980
Bayfield	Washburn	Robert N. Ledin	July 31, 1983
Brown			
Branch 1	Green Bay	Richard G. Greenwood	July 31, 1985
Branch 2	Green Bay	Robert J. Parins	1st Mon. Jan. 1980
Branch 3	Green Bay	William J. Duffy	1st Mon. Jan. 1980
Branch 4	Green Bay	Clarence W. Nier	1st Mon. Jan. 1980
Branch 5	Green Bay	James W. Byers	1st Mon. Jan. 1980
Branch 6	Green Bay	N. Patrick Crooks	July 31, 1985
Branch 7	Green Bay	John C. Jaekels	1st Mon. Jan. 1980
Buffalo-Pepin	Alma	Gary B. Schlosstein	July 31, 1984
Burnett	Grantsburg	Harry F. Gunderson	1st Mon. Jan. 1980
Calumet	Chilton	David H. Sebor	1st Mon. Jan. 1980
Chippewa			
Branch 1	Chippewa Falls	Robert F. Piffner	1st Mon. Jan. 1980
Branch 2	Chippewa Falls	Richard H. Stafford	1st Mon. Jan. 1980
Clark			
Branch 1	Neillsville	Lowell D. Schoengarth	1st Mon. Jan. 1982
Branch 2	Neillsville	Michael W. Brennan	July 31, 1984
Columbia			
Branch 1	Portage	Howard W. Latton	1st Mon. Jan. 1980
Branch 2	Portage	Lewis W. Charles	1st Mon. Jan. 1981
Branch 3***	Portage	Daniel C. O'Connor	1st Mon. Jan. 1980
Crawford	Prairie du Chien	Michael T. Kirchner	July 31, 1983
Dane			
Branch 1	Madison	Richard W. Bardwell	1st Mon. Jan. 1981
Branch 2	Madison	Michael B. Torphy, Jr.	1st Mon. Jan. 1981
Branch 3	Madison	P. Charles Jones	July 31, 1983
Branch 4	Madison	William F. Eich	July 31, 1984
Branch 5	Madison	Robert R. Pekowsky	July 31, 1984
Branch 6	Madison	James C. Boll	1st Mon. Jan. 1981
Branch 7	Madison	Moria Krueger	July 31, 1985
Branch 8	Madison	Ervin M. Bruner	1st Mon. Jan. 1980
Branch 9	Madison	William D. Byrne	1st Mon. Jan. 1982
Branch 10	Madison	Angela B. Bartell	1st Mon. Jan. 1980
Dodge			
Branch 1	Juneau	Henry G. Gergen, Jr.	July 31, 1984
Branch 2	Juneau	Joseph E. Schultz	July 31, 1985
Branch 3	Juneau	Thomas W. Wells	July 31, 1983
Door	Sturgeon Bay	Edwin C. Stephan	1st Mon. Jan. 1982
Douglas			
Branch 1	Superior	Arthur A. Cirilli	July 31, 1985
Branch 2	Superior	Douglas S. Moodie	July 31, 1983
Branch 3***	Superior	Henry N. Leveroos ¹	1st Mon. Jan. 1982
Dunn	Menominee	Donna J. Muza	July 31, 1984
Eau Claire			
Branch 1	Eau Claire	Thomas H. Barland	1st Mon. Jan. 1982
Branch 2	Eau Claire	William D. O'Brien	July 31, 1984
Branch 3	Eau Claire	Karl F. Peplau ²	July 31, 1984
Florence, see Forest-Florence			
Fond du Lac			
Branch 1	Fond du Lac	Jerold E. Murphy	1st Mon. Jan. 1980
Branch 2	Fond du Lac	John P. McGalloway, Jr.	1st Mon. Jan. 1982
Branch 3	Fond du Lac	Hazen W. McEssey ³	1st Mon. Jan. 1982
Branch 4	Fond du Lac	Eugene F. McEssey	1st Mon. Jan. 1980

JUDGES OF CIRCUIT COURTS—Cont.

Circuits*	Court Location	Judges	Term Expiration
Forest-Florence	Crandon	Frederick H. Fowle	1st Mon. Jan. 1980
Grant			
Branch 1	Lancaster	John Wagner	July 31, 1985
Branch 2	Lancaster	William L. Reinecke	1st Mon. Jan. 1980
Green	Monroe	Franz W. Brand	1st Mon. Jan. 1982
Green Lake	Green Lake	David C. Willis	1st Mon. Jan. 1982
Iowa	Dodgeville	James P. Fiedler	1st Mon. Jan. 1980
Iron	Hurley	Alex J. Raineri	July 31, 1984
Jackson	Black River Falls	Louis S. Drictrah	July 31, 1984
Jefferson			
Branch 1	Jefferson	John B. Danforth	July 31, 1985
Branch 2	Jefferson	William Brande ¹	July 31, 1984
Juneau	Mauston	William R. Curran	1st Mon. Jan. 1980
Kenosha			
Branch 1	Kenosha	Earl D. Morton	1st Mon. Jan. 1980
Branch 2	Kenosha	William U. Zievers	1st Mon. Jan. 1980
Branch 3	Kenosha	John E. Malloy	July 31, 1983
Branch 4	Kenosha	Michael S. Fisher	1st Mon. Jan. 1981
Branch 5	Kenosha	Burton A. Scott	1st Mon. Jan. 1980
Kewaunee	Kewaunee	John A. Curtin	1st Mon. Jan. 1980
La Crosse			
Branch 1	La Crosse	Peter G. Pappas	July 31, 1983
Branch 2	La Crosse	Eugene A. Toepel	July 31, 1983
Branch 3	La Crosse	Dennis G. Montabon	1st Mon. Jan. 1980
Lafayette	Darlington	Daniel P. McDonald	July 31, 1985
Langlade	Antigo	Ralph J. Strandberg	1st Mon. Jan. 1980
Lincoln	Merrill	Donald E. Schnabel	1st Mon. Jan. 1980
Manitowoc			
Branch 1	Manitowoc	Allan J. Deehr	1st Mon. Jan. 1981
Branch 2	Manitowoc	Leon H. Jones	July 31, 1985
Branch 3	Manitowoc	Harold W. Mueller	1st Mon. Jan. 1982
Marathon			
Branch 1	Wausau	Ronald D. Keberle	1st Mon. Jan. 1982
Branch 2	Wausau	Leo D. Crooks	1st Mon. Jan. 1980
Branch 3	Wausau	Daniel L. La Rocque	July 31, 1984
Marinette			
Branch 1	Marinette	Charles D. Heath	July 31, 1984
Branch 2	Marinette	William M. Donovan	July 31, 1984
Marquette	Montello	Andrew P. Cotter	1st Mon. Jan. 1980
Menominee, see Shawano-Menominee			
Milwaukee			
Branch 1	Milwaukee	Louis J. Ceci	1st Mon. Jan. 1980
Branch 2	Milwaukee	George A. Burns, Jr.	1st Mon. Jan. 1981
Branch 3	Milwaukee	Patricia S. Curley	1st Mon. Jan. 1980
Branch 4	Milwaukee	Leah M. Lampone	1st Mon. Jan. 1980
Branch 5	Milwaukee	Ralph J. Podell	1st Mon. Jan. 1980
Branch 6	Milwaukee	Robert W. Landry	July 31, 1985
Branch 7	Milwaukee	John F. Foley	July 31, 1985
Branch 8	Milwaukee	Michael J. Barron	1st Mon. Jan. 1980
Branch 9	Milwaukee	Robert M. Curley	1st Mon. Jan. 1982
Branch 10	Milwaukee	Ted E. Wedemeyer, Jr.	July 31, 1985
Branch 11	Milwaukee	Christ T. Seraphim	1st Mon. Jan. 1980
Branch 12	Milwaukee	Michael J. Skwierawski	1st Mon. Jan. 1980
Branch 13	Milwaukee	Victor Manian	1st Mon. Jan. 1982
Branch 14	Milwaukee	Leander J. Foley, Jr.	1st Mon. Jan. 1982
Branch 15	Milwaukee	Marvin C. Holz	July 31, 1984
Branch 16	Milwaukee	Fred St. Clair	1st Mon. Jan. 1980
Branch 17	Milwaukee	Hugh R. O'Connell	1st Mon. Jan. 1980
Branch 18	Milwaukee	Harold B. Jackson, Jr.	1st Mon. Jan. 1982
Branch 19	Milwaukee	John E. McCormick	1st Mon. Jan. 1981
Branch 20	Milwaukee	William J. Shaughnessy	1st Mon. Jan. 1980
Branch 21	Milwaukee	Michael T. Sullivan	July 31, 1983
Branch 22	Milwaukee	Terence T. Evans	1st Mon. Jan. 1982
Branch 23	Milwaukee	Frederick P. Kessler	1st Mon. Jan. 1980
Branch 24	Milwaukee	David V. Jennings	1st Mon. Jan. 1980
Branch 25	Milwaukee	Ralph G. Gorenstein	1st Mon. Jan. 1981
Branch 26	Milwaukee	Michael P. Sullivan	July 31, 1984
Branch 27	Milwaukee	Donald W. Steinmetz	July 31, 1984
Branch 28	Milwaukee	Robert J. Miech	July 31, 1985
Branch 29	Milwaukee	Gary L. Gerlach	July 31, 1983
Branch 30	Milwaukee	William A. Jennaro	July 31, 1985
Branch 31	Milwaukee	Patrick J. Madden	July 31, 1984
Branch 32	Milwaukee	Michael D. Guolee	July 31, 1984
Branch 33	Milwaukee	Laurence C. Gram	1st Mon. Jan. 1981
Monroe	Sparta	James W. Rice	July 31, 1984
Oconto	Oconto	Edward P. Herald	1st Mon. Jan. 1982
Oneida	Rhinelander	Robert E. Kinney	July 31, 1984

JUDGES OF CIRCUIT COURTS—Cont.

Circuits*	Court Location	Judges	Term Expiration
Outagamie			
Branch 1	Appleton	Gordon Myse	1st Mon. Jan. 1980
Branch 2	Appleton	Urban Van Susteran	July 31, 1985
Branch 3	Appleton	Nick F. Schaeffer	1st Mon. Jan. 1981
Branch 4	Appleton	R. Thomas Cane	1st Mon. Jan. 1980
Ozaukee			
Branch 1	Port Washington	Walter J. Swietlik	1st Mon. Jan. 1980
Branch 2	Port Washington	Warren A. Grady	1st Mon. Jan. 1980
Pepin, see Buffalo-Pepin			
Pierce	Ellsworth	William E. McEwen	1st Mon. Jan. 1980
Polk	Balsam Lake	Robert O. Weisel	July 31, 1984
Portage			
Branch 1	Stevens Point	James H. Levi	1st Mon. Jan. 1981
Branch 2	Stevens Point	Robert C. Jenkins	July 31, 1983
Price	Phillips	David A. Clapp	July 31, 1984
Racine			
Branch 1	Racine	John C. Ahlgrimm	July 31, 1985
Branch 2	Racine	Thomas P. Corbett	1st Mon. Jan. 1980
Branch 3	Racine	Jon B. Skow	July 31, 1984
Branch 4	Racine	William F. Jones	1st Mon. Jan. 1980
Branch 5	Racine	Richard G. Harvey, Jr. ¹	1st Mon. Jan. 1982
Branch 6	Racine	Dennis D. Costello	July 31, 1985
Branch 7	Racine	James Wilbershide	July 31, 1984
Branch 8	Racine	Dennis J. Flynn	1st Mon. Jan. 1982
Richland	Richland Center	Kent C. Houck	July 31, 1985
Rock			
Branch 1	Janesville	Mark Farnum	July 31, 1985
Branch 2	Janesville	Sverre Roang	1st Mon. Jan. 1980
Branch 3	Janesville	Gerald W. Jaeckle	1st Mon. Jan. 1982
Branch 4	Janesville	Edwin C. Dahlberg	July 31, 1984
Branch 5	Janesville	John H. Lussow	1st Mon. Jan. 1980
Rusk	Ladysmith	Donald J. Sterlinske	January 1980
St. Croix			
Branch 1	Hudson	John G. Bartholomew	1st Mon. Jan. 1980
Branch 2	Hudson	Joseph W. Hughes	July 31, 1983
Sauk			
Branch 1	Baraboo	James W. Karch	1st Mon. Jan. 1982
Branch 2	Baraboo	James R. Seering	1st Mon. Jan. 1980
Sawyer	Hayward	Alvin L. Kelsey	July 31, 1983
Shawano-Menominee			
Branch 1	Shawano	Michael G. Eberlein	July 31, 1983
Branch 2	Shawano	Thomas G. Grover	July 31, 1983
Sheboygan			
Branch 1	Sheboygan	Ernest C. Keppler	July 31, 1985
Branch 2	Sheboygan	John G. Buchen	July 31, 1983
Branch 3	Sheboygan	John Bolgert	1st Mon. Jan. 1981
Taylor	Medford	Peter J. Seidl	1st Mon. Jan. 1980
Trempealeau	Whitehall	Albert L. Twesme	1st Mon. Jan. 1980
Vernon	Viroqua	Walter S. Block	1st Mon. Jan. 1982
Vilas	Eagle River	Timothy L. Vocke	July 31, 1985
Walworth			
Branch 1	Elkhorn	Erwin C. Zastrow (disabled) Robert H. Gollmar (Acting... Judge)	1st Mon. Jan. 1982
Branch 2	Elkhorn	James L. Carlson	July 31, 1984
Branch 3	Elkhorn	John J. Byrnes	1st Mon. Jan. 1982
Washburn	Shell Lake	Warren Winton	July 31, 1985
Washington			
Branch 1	West Bend	J. Tom Merriam	July 31, 1984
Branch 2	West Bend	James B. Schwalbach	July 31, 1985
Branch 3	West Bend	Richard T. Becker	July 31, 1984
Waukesha			
Branch 1	Waukesha	William E. Gramling (disabled), Max Rasikin (Acting Judge)	1st Mon. Jan. 1982
Branch 2	Waukesha	Ness Flores	1st Mon. Jan. 1980
Branch 3	Waukesha	David L. Dancy	July 31, 1983
Branch 4	Waukesha	Patrick L. Snyder	1st Mon. Jan. 1980
Branch 5	Waukesha	Harold J. Wollenzien	July 31, 1984
Branch 6	Waukesha	Robert T. McCraw	July 31, 1984
Branch 7	Waukesha	Neal P. Nettesheim	1st Mon. Jan. 1981
Waupaca			
Branch 1	Waupaca	A. Don Zwickey ¹	July 31, 1984
Branch 2	Waupaca	Nathan E. Wiese	1st Mon. Jan. 1981
Waushara	Wautoma	vacancy	
Winnebago			
Branch 1	Oshkosh	William E. Crane	1st Mon. Jan. 1982
Branch 2	Oshkosh	Edmund P. Arpin	1st Mon. Jan. 1982

JUDGES OF CIRCUIT COURTS—Cont.

Circuits*	Court Location	Judges	Term Expiration
Branch 3	Oshkosh	Thomas S. Williams	1st Mon. Jan. 1980
Branch 4	Oshkosh	James G. Sarres	1st Mon. Jan. 1982
Branch 5	Oshkosh	William H. Carver	1st Mon. Jan. 1980
Wood			
Branch 1	Wisconsin Rapids	Dennis D. Conway	July 31, 1985
Branch 2	Wisconsin Rapids	Frederick A. Fink	1st Mon. Jan. 1980
Elected April 3, 1979			
Barron	Barron	James C. Eaton	July 31, 1986
Brown			
Branch 2	Green Bay	Robert J. Parins	July 31, 1986
Branch 3	Green Bay	William J. Duffy	July 31, 1986
Branch 4	Green Bay	Clarence W. Nier	July 31, 1986
Burnett	Grantsburg	Harry F. Gunderson	July 31, 1986
Calumet	Chilton	Hugh F. Nelson	July 31, 1986
Chippewa			
Branch 1	Chippewa Falls	Robert F. Pffner	July 31, 1986
Branch 2	Chippewa Falls	Richard H. Stafford	July 31, 1986
Columbia			
Branch 1	Portage	Howard W. Latton	July 31, 1986
Dane			
Branch 8	Madison	Ervin M. Bruner	July 31, 1986
Branch 9	Madison	William D. Byrne	July 31, 1986
Branch 10	Madison	Angela B. Bartell	July 31, 1986
Branch 11**	Madison	Daniel R. Moser	July 31, 1986
Branch 12**	Madison	Mark A. Frankel	July 31, 1986
Fond du Lac			
Branch 1	Fond du Lac	Jerold E. Murphy	July 31, 1986
Branch 4	Fond du Lac	Eugene F. McEssey	July 31, 1986
Forest-Florence	Crandon	Frederick H. Fowle	July 31, 1986
Grant			
Branch 2	Lancaster	William L. Reinecke	July 31, 1986
Iowa			
	Dodgeville	James P. Fiedler	July 31, 1986
Jefferson			
Branch 3**	Jefferson	Harold H. Eberhardt	July 31, 1986
Juneau	Mauston	Wallace A. Brady	July 31, 1986
Kenosha			
Branch 1	Kenosha	Earl D. Morton	July 31, 1986
Branch 2	Kenosha	William U. Zievers	July 31, 1986
Branch 5	Kenosha	Burton A. Scott	July 31, 1986
Kewaunee	Kewaunee	F. Dean Pies	July 31, 1986
La Crosse			
Branch 3	La Crosse	Dennis G. Montabon	July 31, 1986
Langlade	Antigo	Ralph J. Strandberg	July 31, 1986
Lincoln	Merrill	J. Michael Nolan	July 31, 1986
Marathon			
Branch 2	Wausau	Leo D. Crooks	July 31, 1986
Branch 4**	Wausau	John W. Stevens	July 31, 1986
Marquette	Montello	Andrew P. Cotter	July 31, 1986
Milwaukee			
Branch 1	Milwaukee	Louis J. Ceci	July 31, 1986
Branch 3	Milwaukee	Patricia S. Curley	July 31, 1986
Branch 4	Milwaukee	Leah M. Lampona	July 31, 1986
Branch 5	Milwaukee	Patrick T. Shedy	July 31, 1986
Branch 8	Milwaukee	Michael J. Barron	July 31, 1986
Branch 11	Milwaukee	Christ T. Seraphim	July 31, 1986
Branch 12	Milwaukee	Michael J. Skwierawski	July 31, 1986
Branch 16	Milwaukee	William D. Gardner	July 31, 1986
Branch 17	Milwaukee	Hugh R. O'Connell	July 31, 1986
Branch 20	Milwaukee	William J. Shaughnessy	July 31, 1986
Branch 23	Milwaukee	Frederick P. Kessler	July 31, 1986
Branch 24	Milwaukee	David V. Jennings	July 31, 1986
Branch 34**	Milwaukee	Ralph A. Fine	July 31, 1986
Branch 35**	Milwaukee	Rudolph T. Randa	July 31, 1986
Branch 36**	Milwaukee	Joseph P. Callan	July 31, 1986
Outagamie			
Branch 1	Appleton	Gordon Myse	July 31, 1986
Branch 4	Appleton	R. Thomas Cane	July 31, 1986
Ozaukee			
Branch 1	Port Washington	Walter J. Swietlik	July 31, 1986
Branch 2	Port Washington	Warren A. Grady	July 31, 1986
Branch 3**	Port Washington	Joseph D. McCormick	July 31, 1986
Pierce	Ellsworth	William E. McEwen	July 31, 1986
Racine			
Branch 2	Racine	Stephen A. Simanek	July 31, 1986
Branch 4	Racine	Emmuel J. Vuvunas	July 31, 1986
Rock			
Branch 2	Janesville	John H. Lussow	July 31, 1986
Branch 5	Janesville	J. Richard Long	July 31, 1986

JUDGES OF CIRCUIT COURTS—Cont.

Circuits*	Court Location	Judges	Term Expiration
Branch 6**	Janesville	Patrick J. Rude	July 31, 1986
Rusk	Ladysmith	Donald J. Sterlinske	July 31, 1986
St. Croix			
Branch 1	Hudson	John G. Bartholomew	July 31, 1986
Sauk			
Branch 2	Baraboo	James R. Seering	July 31, 1986
Sheboygan			
Branch 4**	Sheboygan	Daniel P. Anderson	July 31, 1986
Taylor	Medford	Gary L. Carlson	July 31, 1986
Trempealeau	Whitehall	Albert L. Twesme	July 31, 1986
Waukesha			
Branch 2	Waukesha	Ness Flores	July 31, 1986
Branch 4	Waukesha	Patrick L. Snyder	July 31, 1986
Branch 8**	Waukesha	John P. Buckley	July 31, 1986
Branch 9**	Waukesha	Willis J. Zick	July 31, 1986
Wausara	Wautoma	Jon P. Wilcox	July 31, 1986
Winnebago			
Branch 3	Oshkosh	Thomas S. Williams	July 31, 1986
Branch 5	Oshkosh	William H. Carver	July 31, 1986
Wood			
Branch 2	Wisconsin Rapids	Frederick A. Fink	July 31, 1986

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

** Chapter 449, Laws of 1977, created 13 additional circuit courts as follows: Dane, Branches 11 and 12; Jefferson, Branch 3; Marathon, Branch 4; Milwaukee, Branches 34, 35, 36 and 37; Ozaukee, Branch 3; Rock, Branch 6; Sheboygan, Branch 4; and Waukesha, Branches 8 and 9. With the exception of Milwaukee, Branch 37, these new circuit courts commence August 1, 1979; Milwaukee, Branch 37, commences August 1, 1980.

*** Chapter 449, Laws of 1977, abolished Columbia, Branch 3, and Douglas, Branch 3, upon the end of the incumbent's term, death, resignation, retirement or removal.

¹ Must retire July 31, 1980;

³ Must retire July 31, 1981;

⁵ Must retire July 31, 1979.

² Must retire July 31, 1983;

⁴ Must retire July 31, 1982;

Sources: Chapters 187 and 449, Laws of 1977; 1977 Wisconsin Statutes, 'Appendix'; Director of State Courts, departmental data; and Elections Board, departmental data.

JUDICIAL ADMINISTRATIVE DISTRICTS

Chief Judges: District 1: MICHAEL T. SULLIVAN; District 2: JOHN AHLGRIMM; District 3: HAROLD WOLLENZIEN; District 4: ALLAN J. DEEHR; District 5: RICHARD BARDWELL; District 6: HENRY GERGEN; District 7: ALBERT L. TWESME; District 8: CLARENCE NIER; District 9: RONALD KEBERLE; District 10: ARTHUR CIRILLI.

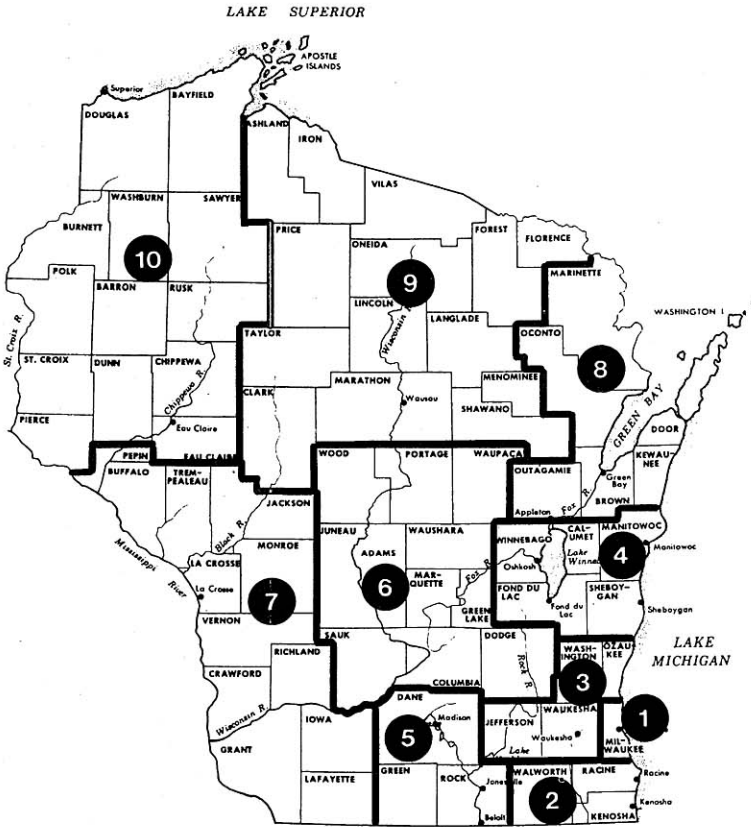
Statutory Reference: Section 757.60 *et seq.*

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 and has the power to assign judges and manage caseload throughout the district and to supervise personnel and financial planning in the district. 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 under Secs. 757.81 to 757.99. The 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. A deputy chief judge is selected by the chief judge to assist with the administrative duties. Where a multijudge trial court is subdivided into functional multijudge units, the chief judge may select a division presiding judge to serve as the administrative head of a particular multijudge unit. The presiding judge administers the subdivision in accordance with the policies established by the chief judge.

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

JUDICIAL ADMINISTRATIVE DISTRICTS



COURT COMMISSIONERS

Statutory Reference: Sections 757.68 *et seq.*, 247.13, 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 commissioners. The chief judge appoints, supervises, and may remove court commissioners. At least one full-time court commissioner must be created by the county board in Milwaukee County to administer small claims cases. In counties having a population of 100,000 to 500,000 the county board may create one or more full or part-time court commissioners to administer such procedure. Part-time court commissioners may be appointed by circuit judges in each county.

All such appointments are subject to the approval of the majority of the circuit judges in the county.

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 and set bail in criminal matters, conduct initial appearances, receive noncontested forfeiture pleas and impose monetary penalties in traffic cases, conduct initial return appearances and conciliation conferences in small claims type actions and hear petitions for commitment under the mental health act. They may under their own authority 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 also 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.

The board of supervisors of any county may authorize the chief judge to appoint one or more part or full-time *juvenile court commissioners* who have been licensed to practice law at least 2 years prior to appointment. A juvenile court commissioner may issue summonses, conduct hearings under Sec. 48.21, appearances under Sec. 48.243 (3), plea hearings and proceedings under Sec. 48.125, if authorized by the judge assigned juvenile jurisdiction.

In counties having a population of 500,000 or more, the chief judge shall appoint and may remove a *probate court commissioner* under Secs. 63.01 to 63.17. 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 remove, if cause is proven, the probate court commissioner. Probate court commissioners have the powers of court commissioners.

MUNICIPAL COURTS

Statutory Reference: Article VII, Section 2 and 14, *Wisconsin Constitution*, Chapters 300 and 755, Statutes.

The governing bodies of cities, villages and towns are by statute authorized 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.

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 creates the municipal court. A municipal court may render judgment by ordering payment of a forfeiture plus any costs of prosecution or by imprisonment in default of such payment. Appeals from municipal court are to the circuit court for the county where the offense occurred.

If a municipal judge is substituted or disqualified, the transfer of the case to another municipal judge or, if none is available, to the circuit court is handled by the chief judge of the judicial administrative district in which the municipality lies.
