

CHAPTER SCR 75

CIRCUIT COURT COMMISSIONERS

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Note: SCR Chapter 75 was created January 1, 1999; amended March 1, 2001; September 14, 2001; November 15, 2016.

SCR 75.01 Definitions. In this chapter:

(1) “Chief judge” means the judge appointed under SCR 70.18 for the judicial administrative district.

(2) “Circuit court commissioner” means a person appointed under SCR 75.02 (1) and a person authorized under SCR 75.02 (3) to the limited extent of that authorization.

(3) “Supplemental court commissioner” means a person appointed under s. 757.675 (1), stats.

History: Sup. Ct. Order No. 97–10, 216 Wis. 2d xiii (1998), suspended 218 Wis. 2d xxi (1998), vacated and recreated 221 Wis. 2d xiii (1999); Sup. Ct. Order No. 16–08, 2016 WI 92, filed and eff. 11–15–16.

Comment: This chapter applies to persons appointed under SCR 75.02 (1) and to persons appointed under s. 757.68 (2), stats., and authorized by a chief judge under SCR 75.02 (3) to perform on a temporary or occasional basis specified duties other than those duties they are authorized by statute to perform on their own authority. A person appointed under s. 757.68 (2), stats., may perform duties specified in s. 757.69 (1), stats., only on authority delegated by a judge and with the approval of the chief judge of the judicial administrative district.

The performance evaluation and complaint procedures in SCR 75.04 and 75.06 apply to a circuit court commissioner’s performance of the duties authorized by the chief judge, however limited. Continuing education requirements set forth in SCR 75.05 apply to circuit court commissioners appointed under SCR 75.02 (1) and to circuit court commissioners authorized under SCR 75.02 (3) who spend 40 or more hours per year on duties authorized by a chief judge. This chapter does not apply to persons appointed by one or more circuit judges under s. 757.68 (2), stats., who are not authorized to perform activities other than those specified in s. 757.69 (3), stats., or to registers in probate authorized by a chief judge under SCR 75.02 (4) to perform the duties of a circuit court commissioner in probate matters.

SCR 75.02 Appointment; authorization. (1) The chief judge of a judicial administrative district shall appoint within the district, as authorized by law, officers of the court to perform limited judicial and quasi-judicial functions under the direction and authority of the chief judge and judges of the circuit. These officers of the court shall be selected on the basis of merit through a process approved by the chief judge and the circuit court judges on the counties in which the officers will serve. The chief judge may appoint, under this subsection, only persons who are licensed to practice law in this state, are in good standing, and who have been licensed to practice law in any state for 3 years immediately before the appointment, except as otherwise provided by statute.

(2) (a) The chief judge shall, by order, authorize each person appointed under sub. (1) to perform one or more specific duties allowed court commissioners by statute and approved by the supreme court.

(b) When a new duty of circuit court commissioners is created by statute, the director of state courts shall submit the statute to the supreme court for its consideration. If the court does not expressly approve or disapprove the duty or extend the time for its consideration within 30 days of its submission, the statutory duty will be deemed approved by the court and may be considered a duty that may, by order of the chief judge, be assigned to court commissioners.

(3) The chief judge may, by order, authorize a supplemental court commissioner to perform on a temporary or occasional basis one or more specific duties allowed court commissioners by statute and approved by the supreme court.

(4) Upon application of a judge within the judicial administrative district exercising probate jurisdiction, the chief judge may, by order, authorize a register in probate to perform the duties of a circuit court commissioner in probate matters.

History: Sup. Ct. Order No. 97–10, 216 Wis. 2d xxiii (1998), suspended 218 Wis. 2d xxi (1998), vacated and recreated 221 Wis. 2d xiii (1999), supplemented 12–2–98; Sup. Ct. Order No. 01–03, 2001 WI 13, 241 Wis. 2d xiii; Sup. Ct. Order No. 00–12, 2001 WI 34, 242 Wis. 2d xiii, Sup. Ct. Order No. 00–12A, 2001 WI 44, 242 Wis. 2d lxiii, correcting Order No. 00–12.

Editor’s Note: Supreme Court Order No. 97–10B, 2000 WI 119, 238 Wis. 2d xiii, filed and eff. 11–7–00 provides:

IT IS ORDERED that, effective the date of this order, the specific duties approved by the Supreme Court for purposes of SCR 75.02 are those allowed court commissioners by statute as of January 1, 1999, by 1999 Wisconsin Act 9, Section 3054de, and by 1997 Wisconsin Act 192, Section 17.

Comment: Based on s. 757.69, stats., sub. (2) requires that the order of appointment enumerate specific duties to be performed. It is not expected that every circuit court commissioner will be authorized to perform all of the duties allowed court commissioners by statute and approved by the supreme court.

Subsection (4) is based on s. 757.72 (5), stats.

SCR 75.03 Oath. Each circuit court commissioner and supplemental court commissioner shall take and file the official oath in the office of the clerk of the circuit court of the county for which appointed before performing any duty of the office.

History: Sup. Ct. Order No. 97–10, 216 Wis. 2d xxiii (1998), suspended 218 Wis. 2d xxi (1998), vacated and recreated 10–15–98, eff. 1–1–99.

Comment: This rule reiterates the language of s. 757.68 (1) and (2), stats.

SCR 75.04 Performance evaluation. (1) The director of state courts shall establish a standard procedure for the regular evaluation of the job performance of circuit court commissioners, which shall include minimum performance standards that a circuit court commissioner must meet to be certified as qualified.

(2) The chief judge shall appoint annually one or more supervising judges for each circuit court commissioner. The supervising judge or judges shall communicate responsibilities and performance objectives to the commissioner and shall evaluate annually, pursuant to the procedures and performance standards established under sub. (1), the performance of each circuit court commissioner under his, her or their supervision. The supervising judge or judges shall recommend to the chief judge whether the circuit court commissioner should be certified as qualified to continue in that capacity in the succeeding year. The recommendation of the supervising judge or judges shall be in writing and supported by reasons and shall include findings regarding all of the following:

(a) Whether the circuit court commissioner has met or exceeded the minimum performance standards established under sub. (1).

(b) Whether the circuit court commissioner is subject to any disciplinary order which forbids him or her to act in a quasi-judicial capacity or is currently suspended or removed from office.

(c) Whether the circuit court commissioner, if required to do so, has complied with SCR 70.36 (5) and 75.05 and has attended specific educational programs recommended by the chief judge.

(3) The chief judge, upon considering the recommendation of the supervising judge or judges, shall certify annually each circuit court commissioner as qualified to act in that capacity or deny that certification. The chief judge may not certify any circuit court

commissioner as qualified unless affirmative findings have been made under sub. (2) (a) and (c) and a negative finding has been made under sub. (2).

History: Sup. Ct. Order No. 97–10, 216 Wis. 2d xxiii (1998), suspended 218 Wis. 2d xxi (1998), vacated and recreated 221 Wis. 2d xiii (1999).

Comment: Unless the circuit court commissioner has met minimum performance standards, complied with rules relating to education and prompt decision making and is not under ethical sanctions, he or she cannot be certified as qualified to discharge the functions of the office. Local jurisdictions may use members of the bar and civic and consumer groups to assist the supervising judge in the evaluation process. Under SCR 75.01, this section applies to supplemental court commissioners authorized by a chief judge under SCR 75.02 (3) to perform specified duties on a temporary or occasional basis.

SCR 75.05 Continuing education. (1) A circuit court commissioner shall maintain and improve professional competence by participating in programs of continuing education designed for circuit court commissioners and by participating in local orientation programs, which may include mentoring by circuit court judges.

(2) A person appointed as a circuit court commissioner under SCR 75.02 (1) shall comply with all of the following:

(a) Earn at least 60 education credits each period of 6 years by participating in continuing education programs.

(b) Earn not less than 10 nor more than 30 education credits every 2 years.

(c) If employed full–time in that capacity, earn credits only by participating in continuing education programs approved by the judicial education committee.

(d) If not employed full–time in that capacity, earn not more than 40 of the required 60 credits in any 6–year period by participating in continuing legal education programs approved by the board of bar examiners.

(3) A person authorized under SCR 75.02 (3) to perform specified duties of a circuit court commissioner on a temporary or occasional basis shall earn not less than 3 education credits in programs approved by the judicial education committee in any year in which the performance of those duties requires 40 or more hours.

(4) In this section, one credit is awarded for each half–day of attendance at an in–state education program or at a continuing

legal education program approved by the board of bar examiners. The judicial education committee shall determine the amount of credit awarded for attendance at a national program.

History: Sup. Ct. Order No. 97–10, 216 Wis. 2d xxiii (1998), suspended 218 Wis. 2d xxi (1998), vacated and recreated 221 Wis. 2d xiii (1999).

Comment: SCR 31.05 (4) requires that the board of bar examiners allow participation in activities approved by the judicial education committee to be used to satisfy CLE requirements for attorneys.

SCR 75.06 Complaints; discipline. (1) A person may file a complaint regarding the conduct of a circuit court commissioner with the chief judge or with the judicial commission. The chief judge or a designee of the chief judge shall advise any complainant of the right to file a complaint with the judicial commission. Notwithstanding the jurisdiction of the judicial commission, the chief judge may discipline a circuit court commissioner as provided in sub. (2).

(2) The chief judge is responsible for disciplining circuit court commissioners within the judicial administrative district with respect to their quasi–judicial activities and for determining the severity of the discipline, including removal. The determinations of the chief judge shall be in writing and set forth the reasons for them. The chief judge shall consider information and recommendations from the supervising judge or judges when making those determinations.

History: Sup. Ct. Order No. 97–10, 216 Wis. 2d xxiii (1998), suspended 218 Wis. 2d xxi (1998), vacated and recreated 221 Wis. 2d xiii (1999).

SCR 75.07 Local court rules. (1) The circuit court judges of any county may establish any of the following as local court rules:

(a) Rules and standards clarifying the authority of circuit court commissioners in particular types of cases.

(b) Guidelines for decision making by circuit court commissioners.

(2) All local court rules established under sub. (1) shall be adopted under s. 753.35 (2), stats., shall be consistent with statutes and supreme court rules, and shall be approved by the chief judge.

History: Sup. Ct. Order No. 97–10, 216 Wis. 2d xxiii (1998), suspended 218 Wis. 2d xxi (1998), vacated and recreated 221 Wis. 2d xiii (1999).

Comment: The guidelines established under sub. (1) (b) may not interfere with the decision–making discretion of circuit court commissioners in individual cases.