



2025 ASSEMBLY BILL 73

February 24, 2025 - Introduced by Representatives TUSLER, B. JACOBSON, BROOKS, KNODL, MURPHY and O'CONNOR, cosponsored by Senators JACQUE and WIMBERGER. Referred to Committee on Mental Health and Substance Abuse Prevention.

- 1 **AN ACT to create** chapter 798 of the statutes; **relating to:** statutory recognition
2 of specialized treatment court and commercial court dockets.

Analysis by the Legislative Reference Bureau

This bill statutorily recognizes specialized dockets for treatment courts and for commercial cases. The bill recognizes in statute treatment courts, which are defined in the bill to include adult drug treatment court, juvenile drug treatment court, operating while intoxicated treatment court, mental health treatment court, family dependency treatment court, veterans treatment court, hybrid treatment court, and tribal healing to wellness court.

The bill also statutorily recognizes a specialized docket for commercial cases. Under the bill, the chief justice of the Wisconsin Supreme Court, taking into consideration recommendations from the relevant chief judges of the judicial administrative districts, must select circuit court judges who will be assigned to the commercial court docket upon each judge's agreement to serve. The bill provides that a judge who presides over cases on the commercial court docket is not prohibited from working on any other assigned docket.

Under the bill, certain commercial case types must be assigned to the commercial court docket, including cases involving all of the following: 1) the governance or internal affairs of business organizations; 2) tortious or statutorily prohibited business activity, unfair competition, or antitrust claims; 3) the sale, consolidation, or merger of a business organization or the conversion, share

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1 the fact that the interests of justice in general, and of litigants in particular, are
2 substantially enhanced when judges and other court personnel commit to take
3 specific training in the subject matter areas of a particular specialized docket and
4 then apply that training and expertise to the unique issues before the court. The
5 use of specialized dockets increases efficiencies and improve outcomes in the
6 handling of these cases.

7 (2) The commercial court docket has existed in this state for over 7 years as a
8 pilot project in a number of counties and judicial districts and has been shown to
9 reduce substantially the time it takes to obtain a decision and increase the level of
10 satisfaction of the parties with the results in commercial disputes.

11 **798.05 Treatment court dockets.** (1) PURPOSE; AUTHORITY. The purpose
12 of this section is to statutorily recognize specialized dockets for treatment courts.
13 Treatment courts are designed to operate within the framework of the existing state
14 court system and specifically address underlying issues relating to criminal
15 behavior. Treatment courts provide treatment while working with a
16 multidisciplinary team to deploy a range of graduated rewards and sanctions with
17 the goal of engaging participants in treatment long enough to successfully address
18 any addiction or mental health issues and end the cycle of recidivism.

19 (2) DEFINITION. In this section, "treatment court" includes all of the
20 following:

- 21 (a) Adult drug treatment court.
- 22 (b) Juvenile drug treatment court.
- 23 (c) Operating while intoxicated treatment court.

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1 (d) Mental health treatment court.

2 (e) Family dependency treatment court.

3 (f) Veterans treatment court.

4 (g) Hybrid treatment court.

5 (h) Tribal healing to wellness court.

6 **798.15 Commercial court docket. (1) PURPOSE; AUTHORITY.** The purpose
7 of this section is to statutorily recognize a specialized docket for commercial cases in
8 state circuit courts. The commercial court docket is designed to operate within the
9 framework of the existing state court system with minimal impact on the balance of
10 court operations. It is intended to leverage judicial expertise in commercial law and
11 disputes with commercial litigants' desire to tailor case management practices best
12 suited for resolving substantial business disputes fairly and expeditiously.

13 **(2) DEFINITIONS.** In this section:

14 (a) "Business organization" includes a sole proprietorship, corporation,
15 partnership, limited liability company, limited partnership, professional
16 association, benefits corporation, service corporation, joint venture, bank, savings
17 bank, savings and loan association, or business trust. A "business organization"
18 excludes an individual, a family trust, or a political subdivision or governmental
19 entity.

20 (b) "Consumer contract or transaction" means a consumer contract or
21 transaction that is primarily for personal, family, or household purposes.

22 **(3) SCOPE.** (a) The commercial court procedures outlined in this section
23 apply to judicial administrative districts that have established specialized dockets

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1 for commercial cases on the effective date of this paragraph [LRB inserts date],
2 and to any commercial court docket established after the effective date of this
3 paragraph [LRB inserts date], beginning on the date that docket is established.
4 Courts with specialized dockets for commercial cases shall be referred to as the
5 “commercial court.”

6 (b) 1. The chief justice of the supreme court, after considering the
7 recommendation of the chief judge of the encompassing judicial administrative
8 district, shall select the circuit court judges in the judicial administrative districts
9 who will be assigned to the commercial court docket upon each judge’s agreement to
10 so serve. The chief justice of the supreme court shall select at least all of the
11 following to participate in the commercial court under this section:

12 a. No fewer than 4 circuit court judges within the 2nd judicial administrative
13 district.

14 b. No fewer than 4 circuit court judges within the 3rd judicial administrative
15 district.

16 c. No fewer than 4 circuit court judges within the 5th judicial administrative
17 district.

18 d. No fewer than 4 circuit court judges within the 8th judicial administrative
19 district.

20 e. No fewer than 4 circuit court judges within the 10th judicial administrative
21 district.

22 f. No fewer than 4 circuit court judges within any judicial administrative
23 district that adds a commercial court docket.

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1 2. A judge who presides in a commercial court docket is not prohibited from
2 working on any other assigned docket.

3 3. The chief justice of the supreme court may add additional judicial
4 administrative districts to the commercial court docket upon the recommendation
5 of the director of state courts.

6 **(4) MANDATORY ASSIGNMENT OF CASES TO THE COMMERCIAL COURT DOCKET.**

7 (a) Any case of a type described under par. (b) that is filed in a circuit court in which
8 a commercial court docket has been established shall be assigned to the commercial
9 court docket as provided under sub. (7).

10 (b) The commercial court shall have jurisdiction over all of the following types
11 of cases:

12 1. Cases involving the governance or internal affairs of business
13 organizations, including all of the following:

14 a. Claims between or among owners or constituents of a business
15 organization.

16 b. Claims against officers, directors, or managers of a business organization.

17 c. Claims involving the indemnity of owners, officers, directors, or managers
18 of a business organization.

19 d. Claims involving the interpretation of the rights and obligations under the
20 law governing business organizations, such as chs. 178 to 181, 183, 185, 204, 214,
21 215, and 221 to 223, or any similar statute or law from another jurisdiction.

22 e. Claims involving the interpretation of the rights and obligations under any
23 agreement governing a business organization, such as the articles of incorporation,

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1 bylaws, operating agreements, membership agreements, or partnership agreement
2 of the business organization.

3 2. Cases involving tortious or statutorily prohibited business activity, unfair
4 competition, or antitrust, including all of the following:

5 a. Claims under ch. 133.

6 b. Claims under s. 100.30 (5m) or (5r).

7 c. Claims under s. 134.01.

8 d. Claims of tortious interference with a business organization.

9 e. Claims involving restrictive covenants and agreements not to compete or
10 solicit.

11 f. Claims involving confidentiality agreements.

12 3. Cases involving the sale, consolidation, or merger of a business
13 organization or the conversion, share exchange, or sale of substantially all of the
14 assets of a business organization.

15 4. Cases involving the issuance, sale, or transfer of securities, including
16 claims for securities fraud under ch. 551, or any similar statute or law from another
17 jurisdiction.

18 5. Cases involving intellectual property rights, including all of the following:

19 a. Claims to determine the use, ownership, or status of trademarks, trade
20 secrets, or copyrights.

21 b. Claims under s. 134.90.

22 c. Claims involving any agreement relating to the licensing of any intellectual
23 property right, including patent rights.

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1 6. Cases involving the relationship between a franchisor and franchisee or
2 similar distribution relationship, including all of the following:

3 a. Claims arising from ch. 135 or any similar statute or law from another
4 jurisdiction.

5 b. Claims arising from s. 134.93 or any similar statute or law from another
6 jurisdiction.

7 c. Claims arising from ch. 553 or any similar statute or law from another
8 jurisdiction.

9 7. Cases involving claims or disputes under ch. 402, 403, 404, 405, or 409, or
10 any similar statute or law from another jurisdiction, when the amount in
11 controversy exceeds \$100,000, exclusive of interest, costs, and attorney fees.

12 8. Cases involving receiverships in excess of \$250,000.

13 9. Cases involving confirmation of arbitration awards and compelling or
14 enforcing arbitration awards when the amount in controversy exceeds \$100,000.

15 10. Cases involving commercial real estate construction disputes when the
16 amount in controversy exceeds \$250,000.

17 **(5) DISCRETIONARY ASSIGNMENT OF CASES TO THE COMMERCIAL COURT**
18 DOCKET. (a) In addition to the cases identified under sub. (4) and that are not
19 otherwise excluded under sub. (6), parties to a case in a judicial administrative
20 district in which there is a commercial court docket may jointly move the chief judge
21 of that judicial administrative district for discretionary assignment of the case to
22 that commercial court docket. If the motion for discretionary assignment is
23 granted, the case may be assigned to a commercial court docket.

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1 (b) In deciding a motion for discretionary assignment of a case to a
2 commercial court docket, the chief judge of the encompassing judicial
3 administrative district shall consider the parties to the dispute, the nature of the
4 dispute, the complexity of the issues presented, and whether the commercial court's
5 resolution of the case will provide needed guidance to influence future commercial
6 behavior or assist in resolving future disputes. The decision granting or denying a
7 motion for a discretionary assignment of a case to a commercial court docket is final
8 and nonappealable.

9 **(6) INELIGIBLE CASE TYPES.** The following cases may not be assigned to the
10 commercial court docket:

11 (a) Cases involving small claims under ch. 799.

12 (b) Cases involving a governmental entity or political subdivision seeking to
13 enforce a statutory or regulatory restriction or prohibition.

14 (c) Unless the claim or dispute identified in this subsection is ancillary and
15 incidental to a case assigned to the commercial court docket under sub. (4), cases
16 involving a consumer contract or transaction; disputes between landlords and
17 tenants; domestic relations claims; labor claims; receivership, insolvency, or
18 liquidation cases, except as provided in sub. (4) (b) 8.; malpractice claims; personal
19 injury claims; product liability claims; civil rights claims; tax disputes; cases
20 seeking to compel arbitration or to affirm or disaffirm an arbitration award, except
21 as provided in sub. (4) (b) 9.; construction claims, except as provided in sub. (4) (b)
22 10.; or environmental claims.

23 **(7) IDENTIFICATION AND ASSIGNMENT OF CASES TO COMMERCIAL COURT**

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1 DOCKET. (a) *Plaintiff duties.* At the time of the filing of the complaint under s.
2 801.02 (1), the plaintiff in a civil action shall state on the face of the complaint
3 whether the case qualifies for the commercial court docket under sub. (4) and is not
4 ineligible for assignment under sub. (6).

5 (b) *Clerk of court duties.* 1. For cases filed in which a circuit court judge in
6 that county has already been assigned a commercial court docket, the clerk of court
7 shall assign the case to the commercial court docket and to one of the judges
8 designated for the commercial court docket. In the event of a request for judicial
9 substitution, the case shall be transferred to another circuit court judge who is
10 assigned to the commercial court docket in that judicial administrative district.

11 2. Within a judicial administrative district participating in the commercial
12 court docket, but in which no circuit court judge has been assigned to the
13 commercial court docket, upon the filing of a qualifying case, the clerk of court shall
14 notify the chief judge of the encompassing judicial administrative district, and the
15 chief judge shall assign one of the commercial court docket judges from the other
16 counties in the judicial administrative district. The chief judge's selection shall be
17 made pursuant to s. 751.03 (3). In the event a request for substitution is filed
18 regarding the judge chosen by the chief judge of the encompassing judicial
19 administrative district, the chief judge shall then assign another judge from the
20 judicial administrative district who has been appointed for commercial court cases.

21 (c) *Omission by plaintiff; defendant's and 3rd-party defendant's rights and*
22 *prerogatives of the circuit court.* In the event the duties set forth in par. (a) are not
23 met, the circuit court may sua sponte, or upon a motion filed by a defendant or a 3rd

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1 party with his or her or its responsive pleading or responsive motion, order the
2 transfer of a case to the commercial court docket if the court determines that the
3 case meets the mandatory criteria of sub. (4) and is not ineligible for assignment
4 under sub. (6).

5 (d) *Action number assignment.* On assignment of any matter to the
6 commercial court docket, the matter shall retain the civil action number assigned to
7 it by the clerk of court upon the filing of the complaint.

8 **(8) DISPUTES REGARDING ASSIGNMENTS OF CASES TO THE COMMERCIAL COURT**
9 **DOCKET.** (a) *Contesting the assignment of a case to the commercial court docket.* 1.
10 After assignment of a case to the commercial court docket, the judge assigned to the
11 case may sua sponte, or upon motion of any party, reconsider whether assignment
12 of that case to the commercial court docket is appropriate under the requirements
13 of sub. (4) and is not ineligible for assignment under sub. (6). Any party filing a
14 reconsideration motion under this paragraph shall file the motion no later than the
15 earlier of the following:

16 a. Before any judicial ruling is rendered on any issue of material substance in
17 the case.

18 b. Twenty days after the case is assigned to the commercial court docket.

19 2. If the assigned commercial court judge concludes that the case does not
20 qualify for assignment to the commercial court docket, the judge shall return the
21 case to the general civil case docket.

22 (b) *Review.* Any party aggrieved by the outcome of a motion for
23 reconsideration under par. (a) may request the chief judge of the judicial

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1 administrative district in which the commercial court sits to review the
2 reconsideration decision. A decision by the chief judge of the judicial administrative
3 district resolving the question of which docket shall be assigned the case is final and
4 nonappealable.

5 (9) TRANSFERRING A CASE TO A COMMERCIAL COURT DOCKET. (a) Parties from
6 judicial administrative districts that do not have a dedicated commercial court
7 docket may petition to have their cases administered within a commercial court
8 docket. To facilitate consideration of such petitions, the director of state courts
9 shall periodically designate a district court administrator to be the court
10 administrative officer for the commercial court docket and shall also designate a
11 circuit court judge serving as a commercial court judge at the time of designation to
12 be the supervising commercial court judge.

13 (b) Parties described under par. (a) may jointly petition for transfer of a case to
14 a commercial court docket if all of the following are true:

15 1. The case is a type identified in sub. (4) and is not ineligible for assignment
16 to a commercial court docket under sub. (6).

17 2. The parties agree to use the forms and procedures developed for use in the
18 commercial court docket.

19 3. The parties agree that all proceedings will be conducted in the courtroom of
20 the judge to which the case is assigned under par. (c), except that if the case
21 proceeds to trial, the trial will be conducted in the county where the case was
22 originally filed.

23 (c) The procedure for a joint petition for transfer shall be as follows:

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1 1. When parties petition for the transfer of a commercial court case from a
2 district that does not then have a commercial court docket, they shall file that
3 petition with the clerk of court in the county where the case is originally filed and
4 also file a copy of that petition with the court administrative officer designated by
5 the director of state courts. The supervising commercial court judge shall
6 determine where the case should be transferred based upon workload and the
7 reasonable convenience of the parties and shall confer with the chief judge of that
8 judicial administrative district as to which commercial court judge is best able to
9 accept that additional workload assignment. The parties requesting the
10 assignment to the commercial court docket shall agree that the judge assigned to
11 the case may direct that all matters, other than trial, be held either in the assigned
12 judge's home courtroom or by electronic means. Trials shall be held in the county in
13 which the case was originally filed. The clerk of the circuit court of the county
14 where the case was originally filed shall continue to be responsible to accept filings,
15 clerk on the record proceedings, and perform all other duties applicable to that case.
16 Any judgments rendered as a result of such proceedings shall be docketed in the
17 county in which the matter was originally filed, and any appeal shall be made to the
18 court of appeals in the appellate district where the case was originally filed.

19 2. The supervising commercial court docket judge shall consider the caseload
20 of the judges designated for the commercial court docket, the nature of the case for
21 which the petition was submitted, and the work requirements for cases already
22 pending in the commercial court docket when determining whether to allow the
23 transfer of a case under this paragraph.

