

SUPREME COURT OF WISCONSIN

NOTICE

This order is subject to further editing and modification. The final version will appear in the bound volume of the official reports.

No. 09-02

In the matter of amendment of Supreme Court Rule 72.01 regarding record retention.

FILED

APR 1, 2010

David R. Schanker
Clerk of Supreme Court
Madison, WI

On April 29, 2009, the Director of State Courts, A. John Voelker, petitioned this court to amend Supreme Court Rule (SCR) 72.01, relating to record retention. The petition states the proposed changes will make the language of the rule more uniform and/or conform to statutory changes that have occurred since the last major review of SCR 72.01 in 1997.

On November 2, 2009, the court conducted a hearing in this matter. The Honorable James R. Kieffer presented the petition to the court. The court expressed its appreciation to the members of the records management committee for their work on this project. At the ensuing open administrative conference, the court voted unanimously to adopt the petition.

IT IS ORDERED that, effective July 1, 2010, Supreme Court Rule 72.01 is amended as follows:

SECTION 1. SCR 72.01 (1) to (3) of the Supreme Court Rules are amended to read:

SCR 72.01 **(1)** CIVIL CASE FILES. All papers deposited with the clerk of circuit court in every proceeding commenced under ~~chapter~~ chs. 801 of the statutes to 847, stats.: 20 years after entry of final order.

(2) CIVIL COURT RECORD. A history and index of proceedings under ~~chapter~~ chs. 801 of the statutes kept in book or card form to 847, stats.: 20 years after entry of final order.

(3) CIVIL MINUTE RECORD. A brief statement of in-court proceedings commenced under ~~chapter~~ chs. 801 of the statutes to 847, stats., generally maintained in the case file: 20 years after entry of final order.

SECTION 2. SCR 72.01 (4) of the Supreme Court Rules is repealed.

SECTION 3. SCR 72.01 (5) to (7) of the Supreme Court Rules are amended to read:

SCR 72.01 **(5)** JUDGMENT DOCKET. A record of all money judgments: 20 years after ~~final~~ initial docket entry.

(6) LIEN CLAIMS. A statutory lien filed for services performed or materials provided: until satisfaction, or expiration of the lien or entry of judgment, whichever occurs first, except as provided in subs. (6ag) and (6b).

(6ag) CONSTRUCTION LIENS. A statutory lien claim filed with the clerk of circuit court for services performed or materials provided for improvements, as defined in s. 779.01 (2) (a), stats.: ~~2~~ 6 years after the date of filing the lien claim with

the clerk of circuit court ~~if no action is brought and no summons and complaint are filed.~~

(6b) CONDOMINIUM LIENS. A statement of condominium lien filed with the clerk of circuit court under s. ~~703.16 (4)~~ 703.165 (3), stats., for unpaid assessments, including interest and actual costs of collection: ~~3~~ 7 years after the date of filing the statement of condominium lien with the clerk of circuit court ~~if no action is brought to foreclose the lien.~~

(7) DELINQUENT INCOME TAX, UNEMPLOYMENT COMPENSATION, PUBLIC ASSISTANCE AND WORKERS COMPENSATION PAYMENT WARRANTS, AND DOCKETS. A record of delinquent ~~tax liens or delinquent~~ unemployment compensation, public assistance, or workers compensation payments that have the effect of a final judgment: 20 years after ~~final~~ initial docket entry.

SECTION 4. SCR 72.01 (7m) of the Supreme Court Rules is created to read:

SCR 72.01 **(7m)** DELINQUENT INCOME OR FRANCHISE TAX WARRANT DOCKETS. A record of delinquent income or franchise tax warrants or liens: 10 years from the date of filing with the clerk of circuit court for warrants or liens filed before August 1, 1981; permanent from the date of filing with the clerk of circuit court for warrants or liens filed on August 1, 1981, to April 30, 2004; and 20 years from the date of filing with the clerk of circuit court for warrants or liens filed on or after May 1, 2004, unless renewed. If renewed, a new 20-year retention period begins from the date on which the renewal is filed with the clerk of circuit court.

SECTION 5. SCR 72.01 (8) to (17) of the Supreme Court Rules are amended to read:

SCR 72.01 **(8)** SMALL CLAIMS CASE FILES. All papers deposited with the clerk of ~~courts~~ circuit court in every proceeding commenced under ~~chapter ch.~~ ch. 799 ~~of the statutes, stats.:~~ 20 years after entry of final order or judgment for all cases, including contested cases, stipulated dismissals and default judgments; except 2 years from date of entry of judgment for cases dismissed because issue was not joined and the case was not disposed of by judgment or stipulation within 6 months from the original return date.

(9) SMALL CLAIMS COURT RECORD. A history and index of proceedings ~~kept in book or card form:~~ 20 years after entry of final order for contested cases, stipulated dismissals, and default judgments; ~~1 year from date of filing for dismissed cases~~ except 2 years from the date of entry of judgment for cases dismissed because issue was not joined and the case was not disposed of by judgment or stipulation within 6 months from the original return date.

(10) SMALL CLAIMS MINUTE RECORD. A brief statement of in-court proceedings commenced under ~~chapter ch.~~ ch. 799 ~~of the statutes, stats.,~~ generally maintained in the case file: 20 years after entry of final ~~order~~ orders for contested cases, stipulated dismissals, and default judgments; ~~1 year from date of filing for dismissed cases~~ except 2 years from the date of entry of judgment for cases dismissed because issue was not joined and

the case was not disposed of by judgment or stipulation within 6 months from the original return date.

(11) FAMILY CASE FILES. All papers deposited with the clerk of circuit courts court in every proceeding commenced under ch. 767, stats.:

(a) 30 years after entry of judgment of divorce, legal separation, annulment, or paternity, or entry of a final order, except that after 30 years, for any case file for which related support or maintenance payments are continuing to be made, 7 years after final payment or after an order terminating maintenance is filed.

(b) 5 years after entry of judgment or entry of a final order for dismissed divorces, legal separations, and annulments.

(12) FAMILY COURT RECORD. A history and index of proceedings ~~kept in books, on cards or in electronic or optical format:~~

(a) 30 years after entry of judgment of divorce, legal separation, annulment, or paternity, or entry of a final order, except that after 30 years, for any court record for which related support or maintenance payments are continuing to be made, 7 years after final payment or after an order terminating maintenance is filed.

(b) 5 years after entry of judgment or entry of a final order for dismissed divorces, legal separations, and annulments.

(13) FAMILY COURT MINUTE RECORD. A brief statement of in-court proceedings commenced under ch. 767, stats., generally maintained in the case file:

(a) 30 years after entry of judgment of divorce, legal separation, annulment, or paternity, or entry of a final order, except that after 30 years, for any court minutes for which related support or maintenance payments are continuing to be made, 7 years after final payment or after an order terminating maintenance is filed.

(b) 5 years after entry of judgment or entry of a final order for dismissed divorces, legal separations, and annulments.

(14) ~~FAMILY MAINTENANCE~~ MAINTENANCE AND SUPPORT PAYMENT RECORDS. ~~Record~~ Records of ~~family~~ maintenance and ~~child~~ support payments received by the clerk of circuit court: 30 years after entry of judgment of divorce, legal separation, annulment, or paternity, or entry of a final order, except that after 30 years, for any payment records for which related support or maintenance payments are continuing to be made, 7 years after final payment or after an order terminating maintenance is filed.

(15) FELONY CASE FILES. All papers deposited with the clerk of ~~courts~~ circuit court in ~~every proceeding~~ proceedings commenced ~~under ch. 968, stats., for felony offenses and all papers filed with the clerk of courts for the commitment of an inmate under ch. 980, stats. as felonies:~~ as felonies: 50 years after entry of final judgment; except for Class A felonies, 75 years after entry of final judgment.

(16) FELONY COURT RECORD. A history and index of ~~criminal proceedings kept in books, on cards or in electronic or optical format, including court records regarding the commitment of an inmate~~ commenced as felonies: 50 years after entry of final

judgment; except for Class A felonies, 75 years after entry of final judgment.

(17) FELONY MINUTE RECORD. A brief statement of in-court proceedings ~~in a felony action~~ commenced as felonies, generally maintained in the case file, ~~including minute records regarding the commitment of an inmate~~: 50 years after entry of final judgment; except for Class A felonies, 75 years after entry of final judgment

SECTION 6. SCR 72.01 (17g), (17m) and (17r) of the Supreme Court Rules are created to read:

SCR 72.01 **(17g)** SEXUALLY VIOLENT PERSON COMMITMENTS. All papers deposited with the clerk of circuit court for the commitment of an inmate under ch. 980, stats.: 75 years after entry of final judgment.

(17m) SEXUALLY VIOLENT PERSON COMMITMENT COURT RECORD. A history and index of proceedings for the commitment of an inmate: 75 years after entry of final judgment.

(17r) SEXUALLY VIOLENT PERSON COMMITMENT MINUTE RECORD. A brief statement of in-court proceedings for the commitment of an inmate, generally maintained in the case file: 75 years after entry of final judgment.

SECTION 7. SCR 72.01 (18) to (20) of the Supreme Court Rules are amended to read:

SCR 72.01 **(18)** MISDEMEANOR CASE FILES. All papers deposited with the clerk of ~~courts~~ circuit court in ~~every proceedings~~ proceedings commenced ~~under chapter 968 of the statutes for~~

~~misdemeanor offenses~~ as misdemeanors, including criminal traffic offenses: 20 years after entry of final judgment.

(19) MISDEMEANOR COURT RECORD. A history and index of proceedings ~~under chapter 968 of the statutes for misdemeanor offenses~~ commenced as misdemeanors, including criminal traffic offenses, ~~kept in book or card form~~: 20 years after entry of final judgment.

(20) MISDEMEANOR MINUTE RECORD. A brief statement of in-court proceedings ~~in a misdemeanor action~~ commenced as misdemeanors, including criminal traffic offenses, generally maintained in the case file: 20 years after entry of final judgment.

SECTION 8. SCR 72.01 (20g), (20m) and (20r) of the Supreme Court Rules are created to read:

SCR 72.01 **(20g)** COMPLEX FORFEITURES. All papers deposited with the clerk of circuit court in proceedings commenced as complex forfeitures: 20 years after entry of final judgment.

(20m) COMPLEX FORFEITURE COURT RECORD. A history and index of proceedings commenced as complex forfeitures: 20 years after entry of final judgment.

(20r) COMPLEX FORFEITURE MINUTE RECORD. A brief statement of in-court proceedings commenced as complex forfeitures, generally maintained in the case file: 20 years after entry of final judgment.

SECTION 9. SCR 72.01 (24), (24a) and (24m) of the Supreme Court Rules are amended to read:

SCR 72.01 **(24)** TRAFFIC FORFEITURE, CONSERVATION FORFEITURE AND ORDINANCE VIOLATION CASE FILES. All papers deposited with the clerk of

circuit court in ~~every proceeding~~ proceedings commenced under ~~chs. 29, 30, 48, 66, 125, 167, 343, 345, 350 and 938, stats. as~~ traffic forfeitures, conservation forfeitures, or ordinance violations, including juvenile ordinance violations: 5 years after entry of final judgment.

(24a) TRAFFIC FORFEITURE, CONSERVATION FORFEITURE, AND ORDINANCE VIOLATION COURT RECORD. A history and index of proceedings ~~kept in books, on cards or in electronic or optical format~~ commenced as traffic forfeitures, conservation forfeitures, or ordinance violations, including juvenile ordinance violations: 5 years after entry of final judgment.

(24m) TRAFFIC FORFEITURE, CONSERVATION FORFEITURE, AND ORDINANCE VIOLATION MINUTE RECORD. A brief statement of in-court proceedings in ~~a forfeiture or ordinance violation action~~ actions commenced as traffic forfeitures, conservation forfeitures, or ordinance violations, including juvenile ordinance violations, generally maintained in the case file: 5 years after entry of final judgment.

SECTION 10. SCR 72.01 (25) of the Supreme Court Rules is repealed.

SECTION 11. SCR 72.01 (26) of the Supreme Court Rules is amended to read:

SCR 72.01 **(26)** RECORDS OF JOHN DOE PROCEEDINGS. All papers deposited with the clerk of circuit court in ~~every proceeding~~ proceedings commenced under ~~section 968.26 of the statutes as~~ John Doe actions: ~~50 years after date of final proceeding; for~~

~~eases involving the investigation of Class A felonies, 75 years after date of final proceeding.~~

SECTION 12. SCR 72.01 (26m) of the Supreme Court Rules is created to read:

SCR 72.01 **(26m)** RECORDS OF PROCEEDINGS COMMENCED UNDER s. 968.02 (3), STATS. All papers deposited with the clerk of circuit court in proceedings commenced under s. 968.02 (3), stats.: 75 years after date of final proceeding.

SECTION 13. SCR 72.01 (27m) to (34) and (38) to (40) of the Supreme Court Rules are amended to read:

SCR 72.01 **(27m)** JUVENILE COURT SEARCH WARRANTS. Search warrants deposited with the juvenile court in proceedings under ~~chapter ch. 48 of the statutes and 938, stats.:~~ 15 years after filing with the court, unless filed with a case file.

(28) RECORDS OF GRAND JURY PROCEEDINGS. All papers deposited with the clerk of circuit court in ~~every proceeding~~ proceedings commenced under ~~section s. 756.10 of the statutes, 1995 stats., or s. 968.40, stats.:~~ 50 years after date of final proceeding; ~~for cases involving the investigation of Class A felonies, 75 years after the date of final proceeding~~ proceedings.

(29) ESTATE PROBATE CASE FILES. All papers deposited with the register in probate in ~~every proceeding~~ proceedings commenced under ~~chapter chs. 851 of the statutes to 879, stats.:~~ 75 years after entry of final judgment or order or an order discharging the personal representative or trustee.

(30) PROBATE COURT RECORD. A history and index of ~~probate proceedings kept in book or card form~~ commenced under chs. 851

to 879, stats.: 75 years after entry of final judgment or order, or an order discharging the personal representative or trustee.

(31) PROBATE MINUTE RECORD. A brief statement of in-court proceedings commenced under ~~chapters~~ chs. 851 to 880 of the statutes, 879, stats., generally maintained in the case file: 75 years after entry of final judgment or order, or an order discharging the personal representative or trustee.

(32) GUARDIANSHIP CASE FILES. (a) All papers deposited with the register in probate in ~~every proceeding~~ adult guardianship proceedings commenced under ~~chapters~~ chs. 54 or 55 and, stats., or ch. 880 of the statutes, 2003 stats.: 7 years after termination of guardianship.

(b) All papers in juvenile guardianship proceedings commenced under chs. 48 or 54, stats., or ch. 880, 2003 stats.: 7 years after the juvenile's 18th birthday.

(33) GUARDIANSHIP COURT RECORD. (a) A history and index for adult guardianship of proceedings commenced under chapters chs. 54 or 55 and, stats., or ch. 880 of the statutes kept in book or card form, 2003 stats.: 7 years after termination of guardianship.

(b) A history and index for juvenile guardianship proceedings commenced under chs. 48 or 54, stats., or ch. 880, 2003 stats.: 7 years after the juvenile's 18th birthday.

(34) GUARDIANSHIP MINUTE RECORD. (a) A brief statement of in-court proceedings for adult guardianships commenced under ~~chapters~~ chs. 54 or 55 and, stats., or ch. 880 of the statutes,

2003 stats., generally maintained in the case file: 7 years after termination of guardianship.

(b) A brief statement of in-court proceedings for juvenile guardianships commenced under chapters 48 or 54, stats., or ch. 880, 2003 stats.: 7 years after the juvenile's 18th birthday.

(38) MENTAL HEALTH CASE FILES. All papers deposited with the clerk of circuit court or register in probate in ~~every proceeding~~ proceedings commenced under ~~chapter~~ ch. 51 ~~of the statutes, stats.:~~ 10 7 years after entry of final order ~~of commitment or extension.~~

(39) MENTAL HEALTH COURT RECORD. A history and index of proceedings ~~kept in book or card form~~ commenced under ch. 51, stats.: 10 7 years after entry of final order ~~of commitment or extension.~~

(40) MENTAL HEALTH MINUTE RECORD. A brief statement of in-court proceedings commenced under ~~chapter~~ ch. 51 ~~of the statutes, stats.,~~ generally maintained in the case file: 10 7 years after entry of final order ~~of commitment or extension.~~

SECTION 14. SCR 72.01 (42) of the Supreme Court Rules is amended to read:

SCR 72.01 **(42)** TERMINATION OF PARENTAL RIGHTS AND ADOPTION CASE FILES. All papers deposited with the clerk of circuit court, register in probate or clerk of court for juvenile matters in every termination of parental rights and adoption proceeding ~~commenced under chapter 48 of the statutes:~~ permanent.

SECTION 15. SCR 72.01 (41) is renumbered (42m) and amended to read:

SCR 72.01 (42m) JUVENILE DELINQUENCY, JUVENILES IN NEED OF PROTECTION AND SERVICES AND CHILDREN IN NEED OF PROTECTION AND SERVICES CASE FILES. Except as provided in sub. (24), all papers deposited with the clerk of circuit court, register in probate, or clerk of court for juvenile matters in ~~every proceeding~~ proceedings commenced under ch. 48 or 938, stats.: 4 years after the 18th birthday of the juvenile or child; & except 75 years after the ~~18th birthday~~ adjudication of the juvenile or child if he or she was adjudicated delinquent for committing an act that would be punishable as a ~~Class A or Class B~~ felony if committed by an adult.

SECTION 16. SCR 72.01 (43) to (46), (48) and (50) of the Supreme Court Rules are amended to read:

SCR 72.01 **(43)** JUVENILE COURT RECORD. A history and index of proceedings commenced under ch. 48 or 938, stats., ~~kept in books, or on cards or in electronic or optical format:~~ 4 years after the 18th birthday of the juvenile or child; & except 75 years after the ~~18th birthday~~ adjudication of the juvenile or child if he or she was adjudicated delinquent for committing an act that would be punishable as a ~~Class A or Class B~~ felony if committed by an adult.

(44) JUVENILE MINUTE RECORD. A brief statement of in-court proceedings in actions commenced under ch. 48 or 938, stats., generally maintained in the case file: 4 years after the 18th birthday of the juvenile or child; & except 75 years after the ~~18th birthday~~ adjudication of the juvenile or child if he or she was adjudicated delinquent for committing an act that would be

punishable as a ~~Class A or Class B~~ felony if committed by an adult.

(45) NON-CRIMINAL CASE EXHIBITS, PAPER, AND NON-PAPER. One year after the time for appeal has expired, provided that return of the exhibit has been offered to the proffering party or unless all parties have stipulated to an earlier return of exhibits.

(46) CRIMINAL AND JUVENILE DELINQUENCY CASE EXHIBITS, PAPER, AND NON-PAPER. One year after the time for appeal has expired, provided that return of the exhibit has been offered to the proffering party.

(48) RECEIPTS. A receipt for money received by the clerk of circuit court or register in probate: 7 years after issuance.

(50) TRUST ACCOUNT LEDGERS. Records of trust accounts maintained by a clerk of circuit court or register in probate: the retention period for case file from which the trust account emanates; ~~when the trust account is closed, the record may be filed with the related trust account file.~~

SECTION 17. SCR 72.01 (56) of the Supreme Court Rules is repealed.

SECTION 18. SCR 72.01 (57) of the Supreme Court Rules is repealed.

SECTION 19. SCR 72.01 (60), (61), and (64) of the Supreme Court Rules are amended to read:

SCR 72.01 (60) NATURALIZATION RECORDS. Records of applications for U.S. citizenship and proceedings to grant U.S. citizenship: Permanent Transfer custody to the Wisconsin State Historical Society.

(61) COURT RECORDS NO LONGER CREATED, UTILIZED, OR MAINTAINED.

Records no longer created, utilized, or maintained by the court for legal purposes: 20 years after repeal, modification, supersession, or amendment.

(64) INCARCERATED PERSON RECORDS. ~~Files containing prisoner~~ Prisoner litigation correspondence, pleadings, and other documents; ~~usually a writ of habeas corpus or certiorari; that are kept in group files until they are reviewed by a judge to determine if the action can be filed without the payment of filing fees and court costs: 5 years after date of submission. If the action meets the filing criteria as a civil action, it becomes a civil case and is retained in accordance with sub.~~ (1).

SECTION 20. The following Comment to Supreme Court Rule 72.01 (28) is created to read:

Comment

SCR 72.01 (28) contains a reference to s. 756.10, stats., which was renumbered s. 968.40, stats., by Sup. Ct. Order No. 96-08, 207 Wis. 2d xv (1997); Wis. Stat. § 968.40 (1997). This reference is intended to clarify that sub. (28) includes matters commenced before the statutory renumbering.

SECTION 21. The following Comment to Supreme Court Rules 72.01 (32) through (34) is created to read:

Comment

SCRs 72.01 (32) through (34) contain references to ch. 880, which was repealed and replaced with Wis. Stat. ch. 54. 2005 Wis. Act 387, § 100 (effective May 25, 2006). These references

are intended to clarify that subs. (32) through (34) include matters commenced before the statutory renumbering.

IT IS FURTHER ORDERED that the Comments to SCR 72.01 are not adopted, but will be published and may be consulted for guidance in interpreting and applying SCR 72.01.

IT IS FURTHER ORDERED that notice of these amendments of SCR 72.01 shall be given by a single publication of notice in the official state newspaper and in an official publication of the State Bar of Wisconsin. Because of the length of this order, this notice requirement may be satisfied by publication of the Notice of Rule Change attached hereto as Appendix A.

IT IS FURTHER ORDERED that the full text of this order shall be made available on the Web site of the Wisconsin Supreme Court, <http://wicourts.gov>.

Dated at Madison, Wisconsin, this 1st day of April, 2010.

BY THE COURT:

David R. Schanker
Clerk of Supreme Court

SUPREME COURT OF WISCONSIN

No. 09-02

In the matter of amendment of Supreme Court
Rule 72.01 regarding record retention.

FILED

NOTICE OF RULE CHANGE

APR 1, 2010

David R. Schanker
Clerk of Supreme Court
Madison, WI

IT IS ORDERED that effective July 1, 2010, SCR 72.01 of the Supreme Court Rules is amended to read as set forth in the order of this court dated April 1, 2010.

IT IS FURTHER ORDERED that the full text of the order amending SCR 72.01 shall be made available on the Web site of the Wisconsin Supreme Court, <http://wicourts.gov>.

Dated at Madison, Wisconsin, this 1st day of April, 2010.

BY THE COURT:

David R. Schanker
Clerk of Supreme Court

