

WISCONSIN STATE-TRIBAL JUSTICE FORUM

07-11

April 28, 2009

Wisconsin Supreme Court
PO Box 1688
Madison, WI 53701-1688
VIA U.S. MAIL AND E-MAIL

RECEIVED
APR 29 2009
CLERK OF SUPREME COURT
OF WISCONSIN

RE: Proposed amendment to Wis. Stat. § 801.54

Dear Chief Justice Abrahamson and Associate Justices:

I am writing on behalf of the Wisconsin State-Tribal Justice Forum to express support for the amendment to Wis. Stat. § 801.54, which was initially adopted by the Court on March 9, 2009. I am unable to attend the reconsideration hearing on Friday, but attorney Paul Stenzel, an ad-hoc member of the Forum, will be in attendance to answer any questions from the Forum's perspective, and it is possible that other Circuit or Tribal judges may be present as well.

The Forum is aware that Connie Chesnik, Child Support Legal Counsel for Wisconsin DCF, has requested an amendment to the existing discretionary transfer rule to permit a circuit court to transfer post-judgment child support, custody and placement actions unless a party objects or good cause is shown to prevent the transfer.

The Forum believes the proposed amendment is a sensible way to handle transfer of these types of cases, is consistent with the intent of the rule, and will promote judicial economy. Several tribal courts in the state have been exercising jurisdiction in child support matters for years now, and we understand the amendment would help allow an orderly and efficient transfer of Brown County support cases involving tribal members to the Oneida Nation for continued enforcement.

Regarding concerns about personal or subject matter jurisdiction being exercised over non-tribal members, it should be noted that concurrent jurisdiction is a *prerequisite* to transfer under Wis. Stat. § 801.54. Merely permitting the discretionary transfer of cases by rule does not constitute an acknowledgment that Tribal Courts have jurisdiction in every case, or that any particular case should be transferred from state court. For this reason, the Forum does not object to the recommended language contained in the Wisconsin Department of Justice letter of April 6, 2009.

We urge that the prior March 9, 2009 approval stand, and that the proposed amendment be timely implemented. Thank you for your consideration.

Sincerely,

Hon. Neal A. Nielsen III, Chair
Wisconsin State-Tribal Justice Forum

Cc: Forum members