In the matter of REPEALING sections 753.06 (6) (title) and 757.60 (6), Wis. Stats., and Supreme Court Rule 70.17 (6), AMENDING sections 13.525 (1) (e), 757.60 (3), (4), (5), (7), and (9), Wis. Stats., and Supreme Court Rules 70.17 (3), (4), (5), (7), and (9), AND RENUMBERING sections 753.06 (3) (a), (5) (a), (6) (a) to (k), and (7) (a), Wis. Stats.	SUPPORTING MEMORANDUM PETITION 18-___

INTRODUCTION and BRIEF HISTORY

The Director of State Courts respectfully petitions the Supreme Court to amend the statutes and the Supreme Court Rule that establish the judicial administrative districts so as to redistribute the counties that constitute the sixth judicial administrative district. Currently, the State of Wisconsin is divided into ten judicial administrative districts. Section 757.60, Wis. Stats., sets forth the counties contained within each district. Section 753.06, Wis. Stats., sets forth the number of branches contained within each county in each judicial administrative district. The judicial administrative districts were created as part of the courts reorganization in 1977. The reorganization was accomplished largely in two legislative acts, 1977 Wis. Act 187, published December 1, 1977, and 1977 Wis. Act 449, published July 8, 1978.

1977 Wis. Act 187 created the courts of appeal and renumbered all of chapter 252 to chapter 753. Act 187 renumbered s. 252.06, which stated that there were 26 "judicial circuits," to s. 753.06, with no changes. Act 187 also renumbered all of chapter 256 to chapter 757. At that time, there was no provision in chapter 256 regarding judicial administrative districts.   That same legislative session, 1977 Wis. Act 449 created ss. 757.60 to 757.64, establishing in s. 757.60 that there are 10 judicial administrative districts, and distributing the counties among them.

1977 Wis. Act 449 also repealed and recreated s. 753.06 to mirror the creation of the 10 judicial administrative districts. The repeal and recreation of s. 753.06 also established the number of branches within each county. Effective August 1, 1978, the Wisconsin Supreme Court adopted the legislative enactments made by 1977 Wis. Act 449. See *84 Wis. 2d, xiii*. The Supreme Court Rule 70.17, adopted October 30, 1978, establishes the 10 judicial administrative districts set forth in s. 757.60. The judicial administrative districts are administered by a district court administrator, who, with the Chief Judge for each district, oversees court functions.

1981 Wisconsin Act 317 retained the 10 judicial administrative districts, but moved some counties from one administrative district to another: Lafayette County was moved from the 7th to the 5th district, Clark County was moved from the 9th to the 6th, Waupaca County was moved from the 6th to the 8th, Pierce County was moved from the 10th to the 7th, and Ashland County was moved from the 9th to the 10th judicial district. The Director of State Courts filed a petition with the Supreme Court to amend SCR 70.17 to make the rule consistent with these legislative changes. That petition was granted in an Order dated July 27, 1982.

For the reasons set forth in this Memorandum, the Director of State Courts urges the Court to repeal, amend, or renumber the statutes establishing the judicial administrative districts in order to eliminate District 6 and to amend the Supreme Court Rules to keep SCR 70.17 consistent with the statutory changes.

DISCUSSION

A. The Supreme Court Has Rule Making Authority to Amend Statutes Establishing Judicial Administrative Districts.

The Wisconsin Constitution establishes three equal branches of government: executive, legislative, and judicial[1]. While the legislative authority is vested in the state senate and assembly,[2] the Supreme Court has "superintending and administrative authority over all courts.[3]"

The legislature recognizes the Supreme Court's authority to adopt rules of practice and procedure, adopting s. 751.12 (1), Wis. Stat., under which "[t]he state Supreme Court shall, by rules promulgated by it from time to time, regulate pleading, practice, and procedure in judicial proceedings in all courts…" Subsection (2) states: "All statutes relating to pleading, practice, and procedure may be modified or suspended by rules promulgated under this section." The legislature retains authority, as well, to enact, modify, or repeal statutes or rules relating to court procedures and practice.[4]

The statutes that are the subject of this petition relate directly to the courts' procedures and practice and are purely administrative in function[5]. As set forth in the preceding section, statutes within chapters 757 and 763 have been created and amended by legislative acts and by Supreme Court rule, and the legislature or the Supreme Court retain authority to create or amend any statute in these chapters. As part of its duty under the Constitution to exercise "superintending and administrative authority over all courts," the Supreme Court may determine how to organize the courts into judicial districts for the most efficient administration of court services.

For the reasons set forth in the next section, the Director of State Courts believes that the Court should exercise its authority to consolidate the judicial administrative districts.

---

[1] Wis. Const. art. IV, § 1; Wis. Const. art. V, § 1; Wis. Const. art. VII, § 2.
[2] Wis. Const. art. IV, § 1.
[3] Wis. Const. art. VII, § 4 (3).
[4] Section 751.12 (4), Wis. Stats: This section shall not abridge the right of the legislature to enact, modify, or repeal statutes or rules relating to pleading, practice, or procedure.
[5] The requested amendment to s. 13.525 (1) (e), Wis. Stats., merely eliminates a statutory reference to the 6th Judicial Administrative District; it is not a substantive change.

B. The Counties within the Sixth Judicial Administrative District Should be Distributed Among Adjoining Districts

1. The Supreme Court can maintain the current high level of productivity if it consolidates the judicial administrative districts from ten to nine.

As discussed in Section I of this brief, the state has been divided into 10 judicial administrative districts since the court system was reorganized in 1977. Since that time, the Director of State Courts and other court officials have periodically considered consolidation from ten judicial administrative districts into nine. Factors in favor of consolidating the districts include the changing nature of the workload for district court administrators due to greater efficiency through technological innovation and the potential for saving funds that could be used to increase efficiency or to provide additional services to the public. For various reasons, consolidation was not pursued. At this time, the Director of State Courts has determined the time is right to consolidate the districts and urges the Court to distribute the counties contained within the sixth judicial administrative district to surrounding judicial administrative districts.

Technological innovation has made, and continues to make, the job duties of a district court administrator more efficient. While certain duties require a district court administrator to physically travel from county courthouse to county courthouse within his or her district, many other duties may be done remotely. A district court administrator can compile statistics, review most court records, and supervise case management from a single office.

After analyzing the impact of technological innovations and other factors including geographical distance between circuit court branches, judicial need, and weighted case load, the Director of State Courts believes that the court system can function as effectively with nine judicial administrative districts as it currently does with ten. Further reduction, however, would be likely to cause substantial negative impact on the administration of circuit courts and the provision of effective and efficient service to the public.

2. The Supreme Court should consolidate the counties from the sixth judicial administrative district into the surrounding districts.

The Director of State Courts urges the Court to adopt his petition to consolidate the sixth judicial administrative district at this time for several reasons. One reason is that an unusual confluence of events makes this a uniquely advantageous time for consolidation. The Chief Judge of the sixth judicial administrative district is ending his term on July 31, 2018. The district court administrator for the sixth judicial administrative district has informed the Director's office of his intention to retire in late summer or early fall 2018. Finally, the lease for the sixth district's office space expires in September 2018.

In addition to the fortunate timing of events, the sixth district is the most logical of the judicial administrative districts to be consolidated. The sixth judicial administrative district is centrally located in the state (see Appendix A, Figure 1). Its counties[6] can be realigned to neighboring districts in a manner that minimizes disruption.

The Director of State Courts considered several models for consolidation and presents the Court with the plan he believes is the most efficient and effective. As stated in the petition, the Director of State Courts requests that Dodge County be incorporated into the third judicial administrative district, that Green Lake, Marquette, and Waushara Counties be incorporated into the fourth district, that Columbia and Sauk Counties be incorporated into the fifth district, that Adams, Clark, and Juneau Counties be incorporated into the seventh district, and that Portage and Wood Counties be incorporated into the ninth district (see Appendix A, Figure 2).

This distribution takes into account geography, the number of branches within each county, and the weighted case load that each branch carries. Geographically, the realigned counties will be, with a few exceptions, within 50 miles from the District Court Administrator's office. The exceptions are Adams, Clark, and Juneau Counties, which will be 88, 76, and 72 miles from the District Court Administrators' offices, respectively.

Under this distribution, the number of judges within each district will be more equal across the state. Additionally, this distribution minimizes any increase in the weighted case load among the districts. In 2016, 62% of the cases heard in the sixth judicial district were traffic or forfeiture cases, so from a weighted caseload perspective, any detrimental impact is minimized. Finally, the Director of State Courts analyzed data on judicial need as a reliable measure of the workload for a district court administrator. Under the proposed consolidation plan, the new judicial need for the consolidated districts is comparable to the judicial needs in the second and the tenth judicial administrative districts, which are not affected by the consolidation.

For these reasons, the Director of State Courts believes that the most efficient and effective way to consolidate the judicial administrative districts from ten to nine is to eliminate the sixth district and redistribute its counties.

3. **Consolidating the judicial administrative districts will reduce administrative costs.**

Each judicial administrative district is served by a district court administrator, who is assisted by one full time employee or equivalent. In the sixth judicial administrative district, the district court administrator rents office space. By eliminating the position of the district court administrator upon the current administrator's retirement, and by

---

[6] The sixth judicial administrative district consists of Adams, Clark, Columbia, Dodge, Green Lake, Juneau, Marquette, Portage, Sauk, Waushara, and Wood Counties.

allowing the current lease to lapse without renewing, the court system will realize substantial savings.

CONCLUSION

For the reasons set forth in this Memorandum, the Director of State Courts respectfully requests that the Supreme Court grant his petition to consolidate the judicial administrative districts from ten to nine. The Director of State Courts further requests that consolidation be achieved by eliminating the sixth judicial administrative district and ordering that the counties currently administered in that district be distributed among surrounding judicial administrative districts, as described herein.

Respectfully submitted this _____day of _____, 2018.

_____

Judge Randy R. Koschnick
Director of State Courts