

AMENDED DRAFT RULE PROPOSAL

Rule Petition No. 13-05, In the Matter of the Petition to Create  
a Procedure for Enforcement of Supreme Court Disciplinary Orders

Submitted March 5, 2015

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In accordance with the Wisconsin Supreme Court's directive set forth in S. Ct. Order 13-05 (June 24, 2014), the Office of Lawyer Regulation submits this amended draft rule proposal and requests that the Wisconsin Supreme Court adopt rule petition 13-05, as amended to the proposed text below.

22.18m of the supreme court rules is created to read as follows:

**SCR 22.18m ENFORCEMENT OF DISCIPLINARY ORDERS. (1)** The director, or a special investigator acting under SCR 22.25, may seek enforcement of a disciplinary order of the supreme court by filing a motion for enforcement in the underlying disciplinary proceeding when a respondent attorney has failed to comply with a substantial term or condition of a disciplinary order of the court. The motion shall identify the disciplinary order of the supreme court, describe with specificity the reasons for seeking enforcement, and state the relief requested.

**(2)** Upon receipt of the motion filed under sub. (1), the supreme court shall order the respondent to show cause why the relief requested in the motion should not be granted. The

respondent shall file with the supreme court a written response to the order and serve a copy of the response on the director, or special investigator, within the time set forth in the order. The written response shall identify with specificity each factual allegation or part thereof in the motion that the respondent disputes. The director, or special investigator, may file a reply memorandum.

**(3)** The supreme court may decide the motion upon the submissions of the parties, or may refer the matter to a referee, who shall promptly conduct a hearing and file a report with the supreme court containing findings of fact, conclusions of law, and a recommendation for disposition of the motion. Unless otherwise directed by the supreme court, the referee shall follow the procedures in SCR 22.15 and SCR 22.16, and may conduct the hearing by telephone.

**(4)** Upon the submissions of the parties, or upon receipt of the report of the referee, the supreme court shall decide the motion, and may either deny or dismiss the motion, or issue such orders as are necessary to enforce the disciplinary order, including the imposition of sanctions identified in SCR 21.16(1m).

**(5)** The supreme court may assess the costs of the enforcement proceeding against the respondent.

(6) Nothing in this rule shall limit the authority of the director, or a special investigator, to initiate an investigation or proceeding for misconduct or medical incapacity under these rules; or shall limit the constitutional, statutory, or inherent authority of the supreme court.

A Comment to Supreme Court Rule 22.18m (3) is created to read:

COMMENT

The court's policy regarding substitution of referees is set forth in SCR 22.13(4).

22.24 (1) of the supreme court rules is amended to read as follows:

SCR 22.24 (1) The supreme court may assess against the respondent all or a portion of the costs of a disciplinary proceeding in which misconduct is found, a medical incapacity proceeding in which it finds a medical incapacity, a proceeding to enforce a disciplinary order, or a reinstatement proceeding and may enter a judgment for costs. The director may assess all or a portion of the costs of an investigation when discipline is imposed under SCR 22.09. Costs are payable to the office of lawyer regulation.

22.38 of the supreme court rules is amended to read as follows:

**SCR 22.38 STANDARD OF PROOF.** Allegations of misconduct in a complaint, allegations of medical incapacity in a petition, allegations of noncompliance with a disciplinary order of the supreme court in an enforcement proceeding, and character and fitness to practice law shall be established by evidence that is clear, satisfactory and convincing.