



Supreme Court of Wisconsin

OFFICE OF THE CLERK

110 E. MAIN STREET, SUITE 215

P.O. BOX 1688

MADISON, WISCONSIN 53701-1688

Shirley S. Abrahamson
Chief Justice

Telephone (608) 266-1880
TTY Users: Call WI TRS at 1-800-947-3529; request (608) 266-1880
Fax (608) 267-0640
Web Site: www.wicourts.gov

Diane M. Fremgen
Clerk of Supreme Court

WISCONSIN SUPREME COURT ANNUAL STATISTICAL REPORT

2011-2012 TERM

This annual statistical report presents information about the work of the Wisconsin Supreme Court in its judicial and rulemaking functions from September 1, 2011 through August 31, 2012. Included are statistics on case filings, opinions, and dispositions issued by the Court and information about the creation or amendment of rules governing pleading, practice and procedure in judicial proceedings in all Wisconsin courts.

Opinions Issued by the Court

The Supreme Court issued opinions resolving 102 cases during the 2011-2012 term.

| | <u>2011-12</u> | <u>2010-11</u> |
|---|----------------|----------------|
| Total number of cases resolved by opinion | 102 | 90 |
| Attorney discipline cases | 40 | 28 |
| Judicial discipline cases | 0 | 0 |
| Bar admission cases | 0 | 0 |
| Civil cases | 42 | 44 |
| Criminal cases | 20 | 18 |

Petitions for Review

A total of 784 petitions for review were filed during the term. A petition for review asks the Supreme Court to review the decision of the Court of Appeals. The Supreme Court's jurisdiction is discretionary, meaning that review is granted in selected cases only. During the 2011-2012 term, the Supreme Court disposed of 824 petitions for review, of which 51 petitions were granted. At the end of the term, the Court had 283 petitions for review pending.

| | <u>2011-12</u> | <u>2010-11</u> |
|--|----------------|----------------|
| Petitions for Review filed | 784 | 809 |
| Civil cases | 389 | 413 |
| Criminal cases..... | 395 | 396 |
| Petition for Review dispositions | 824 | 681 |
| Civil cases (petitions granted)..... | 407 (35) | 358 (43) |
| Criminal cases (petitions granted) | 417 (16) | 323 (24) |

Petitions for Bypass

This term, the Supreme Court received 12 petitions for bypass and disposed of 8 petitions for bypass, of which one was granted. In a petition for bypass, a party requests that the Supreme Court take jurisdiction of an appeal or other proceeding pending in the Court of Appeals. A matter appropriate for bypass is usually one which meets one or more of the criteria for review by the Supreme Court and one the Supreme Court concludes it will ultimately choose to consider regardless of how the Court of Appeals might decide the issues. A petition for bypass may also be granted where there is a clear need to hasten the ultimate appellate decision. At the end of the term, the Court had 6 petitions for bypass pending.

| | <u>2011-12</u> | <u>2010-11</u> |
|--|----------------|----------------|
| Petitions for Bypass filed | 12 | 9 |
| Civil cases | 10 | 7 |
| Criminal cases..... | 2 | 2 |
| Petition for Bypass dispositions..... | 8 | 11 |
| Civil cases (petitions granted)..... | 6 (1) | 7 (0) |
| Criminal cases (petitions granted) | 2 (0) | 4 (1) |

Requests for Certification

During the 2011-2012 term, the Supreme Court received 14 requests for certification and disposed of 11 requests for certification, of which 8 were granted. In a request for certification, the Court of Appeals asks the Supreme Court to exercise its appellate jurisdiction before the Court of Appeals hears the matter. A request for certification is decided on the basis of the same criteria as a petition to bypass. At the end of the term, the Court had 5 requests for certification pending.

| | <u>2011-12</u> | <u>2010-11</u> |
|---|----------------|----------------|
| Requests for Certification filed | 14 | 13 |
| Civil cases | 10 | 9 |
| Criminal cases | 4 | 4 |
| Request for Certification dispositions..... | 11 | 13 |
| Civil cases (requests granted) | 6 (3) | 9 (7) |
| Criminal cases (requests granted) | 5 (5) | 4 (4) |

Regulatory Matters, Supervisory Writs, and Original Actions

During the 2011-2012 term, a total of 71 matters within the regulatory jurisdiction of the Court (bar admission, lawyer discipline, and judicial discipline) were filed. The Supreme Court also received 68 petitions for supervisory writ, which ask the Supreme Court to order the Court of Appeals or a circuit court to take a certain action in a case. Six original actions were filed. An original action is a petition asking the Supreme Court to take jurisdiction over a particular matter. Opinions disposing of cases in these categories are included in “Opinions Issued by the Court” above; statistics on dispositional orders are listed below. At the end of the term, the Court had 36 regulatory matters and 11 petitions for supervisory writ pending.

| | <u>2011-12</u> | <u>2010-11</u> |
|---|----------------|----------------|
| <u>Filings</u> | | |
| Attorney discipline..... | 69 | 82 |
| Judicial discipline..... | 1 | 0 |
| Bar admission..... | 1 | 0 |
| Petitions for Supervisory Writ | 68 | 58 |
| Other (including Original Actions)..... | 6 | 2 |

Dispositions by Order

| | | |
|---|----|----|
| Attorney discipline..... | 10 | 9 |
| Judicial discipline..... | 0 | 0 |
| Bar admission..... | 0 | 1 |
| Petitions for Supervisory Writ | 72 | 56 |
| Other (including Original Actions)..... | 16 | 8 |

Rules Petitions

Each term, the Court notices and holds public hearings on petitions for the creation or amendment of rules governing pleading, practice and procedure in judicial proceedings in all courts, provided that the Court deems the petition to have arguable merit. In the term just ended, the Court held 5 rules hearings and convened 12 open administrative conferences at which 13 petitions were considered. During the term, the Court adopted 7 amendments or new rules governing practice and procedure in Wisconsin.

New and Amended Rules

The Court adopted the following new and amended rules during the term:

Petition 03-03A: In the matter of amendments to Supreme Court Rules Chapter 36 – Eligibility for Appointment as Guardian Ad Litem for an Adult. The court on its own motion amends Supreme Court Rule (SCR) Chapter 36 to update and correct certain statutory citations contained in the chapter. Order filed February 17, 2012, effective 07-01-2012.

Petition 09-08: In the matter of petition to amend Supreme Court Rule 10.03(5)(b)1. The question before the court in this administrative rule matter was whether to adopt the amendments proposed by the petitioners. On October 17, 2011, the court discussed the matter in open administrative conference and voted, unanimously, to amend SCR 10.03(5)(b)1. as set forth in the orders filed October 21, 2011 and November 11, 2011. Effective 01-01-2012.

Petition 11-02: In the matter of the amendment of Supreme Court Rules 40.01 and 40.14 relating to application for bar admission. The petition proposes an electronic signature be required for all those seeking to file an online application with the BBE. At open administrative conference on September 15, 2011, the court considered the proposal and voted to adopt the petition. Order filed and effective 09-22-2011.

Petition 11-03: In the matter of the repeal and recreation of SCR 70.38-70.39, relating to court security and facilities. On January 11, 2012, the court held a public hearing. At its ensuing open administrative conferences the court approved the petition and adopted the proposed rule, as revised and filed on March 15, 2012. Effective 03-15-12.

Petition 11-07: In the matter of the petition to create a Supreme Court Rule for legal services following a major disaster. The court requested and received additional information from the petitioners by letters dated October 14, 2011, and March 22, 2012. The court approved the petition and adopted the proposed rule, with certain technical revisions. The Supreme Court Rules are amended to create SCR 23.03 as filed July 5, 2012. Effective 07-05-12.

Petition 11-09: In the matter of the petition to amend Supreme Court Rule 60.04(1)(g) relating to ex parte communications in treatment courts. The court conducted a public hearing on the petition on April 25, 2012. At the ensuing open administrative conference the court voted, unanimously, to approve the petition in concept subject to certain revisions to be made by the petitioner in response to issues identified by the court. SCR 60.04(1)(g)6 of the supreme court rules is created as filed on May 22, 2012. Effective 07-01-12.

Petition 12-04: In the matter of Amendments to Wisconsin Supreme Court Internal Operating Procedures II.A. and III.B. The Supreme Court, on its own motion, considered the advisability of amending its Internal Operating Procedures. The court considered this matter at an open administrative conference held on February 27, 2012 and adopted the proposed amendments as filed on May 4, 2012. Effective 05-04-12.

Other Rules Matters

On October 4, 2011 the court conducted a public hearing on petition #10-08. The petition requested an amendment to SCR 11.02 to require that circuit court judges appoint an attorney at public expense for an indigent litigant when the circuit court determines that the assistance of counsel is necessary to protect that litigant's rights to basic human needs, including sustenance, shelter, safety, health, and child custody. The court declined to grant the petition and supplemental petition, which do not fit within SCR 11.02. Order filed February 24, 2012.

On July 6, 2011, Attorneys Steve Levine and James Thiel filed petition #11-04 renewing their request that the court abolish an integrated State Bar of Wisconsin. At the November 7, 2011 open administrative conference, the court voted to release staff commissioner's memorandum on the petition. On February 27, 2012, the court considered a proposed draft appointment order for an SCR 10.10 committee to review the petition, which was denied. The court then re-considered the petition and whether to conduct a public hearing, which was also denied. Order filed June 6, 2012.

On July 6, 2011, 25 active members of the State Bar of Wisconsin filed petition #11-05 asking the court to review and void or amend the bylaw amendments. The court conducted a public hearing on the petition on May 16, 2012. At the ensuing administrative conference, a majority of the court then voted to grant the petition, in part, by rejecting the State Bar bylaw amendment and to deny the petition, in part, by declining to adopt any of the alternate language suggested by the petitioners. Order filed July 5, 2012.

Attorney Richard J. Opie and 12 other State Bar members filed petition #11-06 asking the court to amend Supreme Court Rule (SCR) 31.05 ("Approved hours") to allow teaching "a legal specialty course in a paralegal program approved by the American Bar Association" to satisfy the requirements of SCR 31.02. At open administrative conference on November 7, 2011, the court discussed the petition, BBE's comments, and the petitioners' response. The court voted unanimously to deny the petition without a public hearing. Order filed March 3, 2012.

On November 18, 2011, the Board of Bar Examiners (BBE), by its director, Jacquelynn Rothstein, filed petition #11-08 requesting the court amend Supreme Court Rule (SCR) 40.02(2) and create SCRs 40.055 and 40.14(3)(i) to establish criteria whereby eligible graduates of law schools from other nations would be permitted to sit for the Wisconsin bar examination. The court voted unanimously to return the matter to the BBE for further development (order filed July 5, 2012). Upon resubmission the court will consider a revised petition in an open administrative conference.

On January 11, 2012, Attorney Steven Levine filed petition #12-02 requesting the court order the Board of Bar Examiners to provide Attorney Levine with the names and addresses of those persons who sat for the July 2011 Wisconsin bar examination. In addition, the petition asked the court to repeal SCR 40.12 (Confidentiality) and to create SCR 30.03 to require the Board of Bar Examiners to abide by and be subject to Wisconsin's Public Records Law and Open Meetings Law. Public hearing was held on May 16, 2012 and, at its ensuing open administrative conference, the court agreed to deny the petition. Order filed July 5, 2012.