

# 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. 05-03

---

In the matter of the Amendment of SCR 72.01  
and SCR 70.36 Regarding Record Retention

**FILED**

**JUN 3, 2005**

Cornelia G. Clark  
Clerk of Supreme Court  
Madison, WI

---

On January 21, 2005, the Director of State Courts filed a petition seeking to amend Supreme Court Rules 72.01 and 70.36 concerning the retention of court records to ensure consistency with recent legislative amendments to Wis. Stat. § 974.07. A public hearing on the petition was conducted on April 13, 2005. At the ensuing open administrative conference the court voted to adopt the petition, as follows, effective July 1, 2005:

**Section 1.** SCR 72.01 (46m) is created to read:

SCR 72.01 (46m) Criminal case exhibits containing biological material subject to forensic deoxyribonucleic acid testing under s. 974.07, stats. Any criminal case exhibit that is identified by the parties, the clerk, or the court as containing biological material and that remains in the court's custody shall be retained until the later of 50 years after entry of final judgment or until every person in custody as a

result of the action or proceeding has reached his or her discharge date, or until the court otherwise orders the disposition of the evidence under s. 757.54 (2) (c) or 974.07, stats.

COMMENT

Deoxyribonucleic acid (DNA) technology is increasingly vital to ensuring accuracy and fairness in the criminal justice system. Section 974.07, stats., does not define the term "biological material." The development of new techniques and scientific breakthroughs in all areas of the forensic sciences will influence determinations of criminal case exhibits to be retained pursuant to SCR 72.01 (46m).

**Section 2.** SCR 70.36 (2) (a) 3. is created to read:

SCR 70.36 (2) (a) 3. Certificates filed under subd. 1. or 2. shall be retained by the office of the director of state courts for 10 years from the date of filing.

IT IS ORDERED that notice of this amendment of SCR 70.36 and SCR 72.01 be given by a single publication of a copy of this order in the official state newspaper and in an official publication of the State Bar of Wisconsin.

Dated at Madison, Wisconsin, this 3rd day of June, 2005.

BY THE COURT:

Cornelia G. Clark  
Clerk of Supreme Court

