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TO: WISCONSIN SUPREME COURT

FROM: Robert Brooks, Co-Chair, Joint Legislative Council

RE: Petition to Amend Supreme Court Rule 35.015 (intro.) and (1), Relating to Qualifications for Appointment as a Guardian ad Litem in an Action Affecting the Family

DATE: April 5, 2019

The Joint Legislative Council, on the recommendation of the Study Committee on Child Placement and Support, proposes amending Supreme Court Rule 35.015 (intro.) and (1), to require minimum education relating to dynamics and impact of family violence to be eligible to accept an appointment by a court as a guardian ad litem for a minor in an action or proceeding under ch. 767 of the statutes.

The Study Committee concluded that attorneys practicing as guardians ad litem should receive both preliminary and continuing training in order to effectively recognize and respond to family violence dynamics. Current law, in s. 767.407 (4), Stats., requires a guardian ad litem to investigate whether there is evidence that either parent has engaged in interspousal battery or domestic abuse and to report to the court on the results of the investigation. However, while education relating to dynamics and impact of family violence may be elected among the required subjects, it is not required in order to accept an appointment by a court as a guardian ad litem for a minor in an action or proceeding under ch. 767 of the statutes.

The petition proposes amending the Supreme Court Rule to require minimum education relating to dynamics and impact of family violence in order for an attorney to be eligible to accept an appointment by a court as a guardian ad litem for a minor in a family law action. For an initial appointment, the petition asks that at least three of the six currently required education hours be on the dynamics and impact of family

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violence. For any subsequent appointments, the petition asks that at least one of the six required education hours be on that topic.

The Joint Legislative Council proposes amending SCR 35.015 (intro.) and (1) as follows:

SCR 35.015 Eligibility to accept an appointment. Commencing on July 1, ~~2003~~ 2019, a lawyer may not accept an appointment by a court as a guardian ad litem for a minor in an action or proceeding under chapter 767 of the statutes unless one of the following conditions has been met:

(1) The lawyer has attended 6 hours of guardian ad litem education approved under SCR 35.03 during the combined current reporting period specified in SCR 31.01 (7) at the time he or she accepts an appointment and the immediately preceding reporting period. ~~At~~ The 6 hours shall be allocated as follows:

(a) For a lawyer's first appointment, at least 3 of the 6 hours shall be on the dynamics and impact of family violence education approved under SCR 35.03 (1m) (a) 4., and the remaining 3 hours shall be on any other subject relating to family court guardian ad litem education approved under SCR 35.03 (1m).

(b) For any subsequent appointments, at least one of the 6 hours shall be on the dynamics and impact of family violence education approved under SCR 35.03 (1m) (a) 4., and 2 of the 6 hours shall be on any other subject relating to family court guardian ad litem education approved under SCR 35.03 (1m).

RB:ksm