



STATE OF WISCONSIN – JUDICIAL COUNCIL

AMENDED AGENDA

WISCONSIN JUDICIAL COUNCIL
FRIDAY, September 15, 2023 – 9:30 A.M.
WISCONSIN STATE CAPITOL
ROOM 328NW
MADISON, WISCONSIN

**Members wishing to call in should call
(339) 209-6255 at 9:30 a.m. on 9/15/23. There is no Access Code.**

Special Notice: The Criminal Procedure Committee start time has been adjusted. Therefore, the Judicial Council main meeting will begin tomorrow at 9:30 a.m., and it is hoped will conclude no later than 11:30 a.m. tomorrow.

- 1) Roll Call and approval of the Minutes from June 23, 2023.**
- 2) An important item of business from the Department of Justice must be considered before proceeding with other Council business. Council Member and Assistant Attorney General Kilpatrick (“AG Kilpatrick”) wishes to make a presentation to the entire Council next Friday. It appears to me that AG Kilpatrick is seeking the Council to act as a Committee of the Whole, but I will leave that to Mr. Kilpatrick to explain during his presentation next Friday.**
 - a) AG Kilpatrick’s presentation to the Council will be based on an August 30, 2023 official letter from the Attorney General, signed by Assistant Attorney General Kilpatrick and distributed with this Agenda to the Members.**
 - b) AG Kilpatrick points out in his letter that “Wis. Stat. §752.21(2) provides that applicable appeals shall be heard in a court of appeals district ‘selected by the appellant’ but ‘not be the court of appeals district that contains the court from which the judgment or order is appealed.’”**
 - c) AG Kilpatrick notes that there is a lack of clarity as to when or how Wis. Stat. §752.21(2) is to be implemented. So AG Kilpatrick offers the following proposed rule for Chapter 809 for the Judicial Council’s consideration:**

If the judgment or order appealed is from an action venued in a county designated by the plaintiff to the action as provided under [Wis. Stat. §] 801.50(3)(a), the appellant should select a court of

appeals district for hearing the appeal pursuant to [Wis. Stat. §] 752.21(2). The appellant should select the court of appeals district in the notice of appeal filed pursuant to [Wis. Stat. §] 809.10(1) or by filing a notice with the court of appeals selecting the court of appeals district pursuant to [Wis. Stat. §] 752.21(2) within 14 days of the filing of the notice of appeal. A respondent's challenge to the court of appeals hearing the appeal, if any, should be made within 28 days of the appellant's filing of the notice of appeal.

- d)** For further details concerning AG Kilpatrick's proposal, the Council members are referred to the August 30, 2023 letter accompanying this Agenda. Questions regarding AG Kilpatrick's proposal may be directed to Mr. Kilpatrick during the Council's 9/15/23 meeting.

3) Reports by Committees:

- a)** Judge Thomas Hruz, Chair of the Council's Standing Committee on Appellate Procedure will give a report, concerning the following (electronic documents are being distributed with this Agenda):
 - i) Judge Hruz will address the Proposed Petition and proposed Memorandum in Support of that Petition addressed to the Supreme Court concerning the adoption of a new rule to establish a procedure for appeals from circuit court orders regarding prejudgment determinations of whether a criminal defendant is competent to stand trial, including possible orders permitting involuntary medication aimed at restoring the defendant to competency pursuant to WIS. STAT. § 971.14, *et. seq.* Copies of the proposed Petition and Memorandum are being supplied to Council Members along with this Agenda.
 - ii) Judge Hruz will also provide an update on Rule Petition 23-01, regarding amended Wis. Stat. §809.12 in relation to appellate review of motions for relief pending appeal.
- b)** Thomas Shriner, Chair of the Council's Standing Committee on Evidence and Civil Procedure will give a report.
- c)** Judge Hanna Dugan, Chair of the Council's Standing Committee on Criminal Procedure Report will give a report.
- d)** Margo Kirchner, Chair of the ad hoc Committee on the "Council Corner" (a monthly report to the State Bar on the work of the Council) will give a report.

4) Adjournment.

PUBLIC NOTICE

All meetings of the Judicial Council and its committees are open to the public. The Council's September 15, 2023 meeting will only take place in person in Room 328NW of the Capitol Building. There will be no Zoom access to this meeting. Subject to

limits imposed by the size of Room 328NW, members of the public are welcome. However, if any member of the public disrupts the meeting in any way, security will be called, and the disrupting member will be asked to leave. For more information, please contact the Chair of the Judicial Council, Mr. Gleisner, at 414-651-3182 or gleisnerwilliam@gmail.com.