

**SHAWANO COUNTY
CIRCUIT COURT RULES
(Ninth Judicial District)
Revised July 2015**

- Rule 1:** Small Claims Matters **December 1995**
Rule 2: Pro Se Divorce Packet Fee **January 1996**
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ADOPTION OF COURT RULES

The Shawano County Circuit Court Judges, in order to provide for a system of efficient court administration, and to encourage uniformity between the branches of this court, hereby codify, adopt and promulgate the following rules and policies effective **January, 2013**. All previous rules and policies not otherwise incorporated herein shall have no force or effect after this effective date.

Rule 1: Small Claims Matters

Service in small claims actions; Policy:

Whenever attempted service by mail is returned by the U.S. Postal Service, whether or not service has been accomplished shall be determined as follows:

- (1) **"Refused"**; shall constitute a presumption of service upon the defendant since it indicates that he/she was presented with the envelope but refused to accept it under circumstances indicating that he/she had reason to know that it involved legal proceedings against him.
- (2) **"Unclaimed"**; shall not constitute service since there is no presumption that the defendant has reason to know that legal proceedings involving him/her have been commenced.

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In such cases, the Clerk shall advise the plaintiff of the failure of service and direct plaintiff to obtain personal service or service by publication within 30 days of the date of the notice or have the action dismissed for failure of service.

Source: Original 12/95; revised 1/13

Rule 2: Pro Se Divorce Packet Fee: Case Type 40101

At the request of the purchaser, a \$10.00 fee will be charged for a “divorce packet” to ensure that all appropriate documents have been provided for completion prior to entry of judgment. This fee is a 100% county fee.

Source: Original 1/96; revised 1/13

Rule 3: Family Court Proceedings and Orders

Because of the implementation of the KIDS System for the collection and distribution of funds as it relates to family matters, the limitations it presents, and to insure the consistent handling of court papers in family matters the following policies have been established:

1. KIDS will only allow for the following types of orders:
 - a) child support/family support
 - b) maintenance/alimony orders
 - c) health insurance orders, if a dollar amount is ordered on a monthly basis
 - d) check directly with the Child Support Agency if there are questions about other possible obligations
2. All orders **must be expressed as monthly** even if payments are received by the WI Support Collections Trust Fund (WI SCTF) from the employer or individual on a weekly, bi-weekly or semi-monthly basis.
3. All orders preferred to be in even dollars, no cents.
4. All orders must have an effective date.
5. If you are ordering two different rates, such as when an individual is unemployed during specific times, you **must state the specific time frames**. Example: November through March \$125.00 per month and April through October \$300.00 per month. Do not state when unemployed \$125.00 per month and when employed \$300.00 per month.

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6. Pursuant to the federal guidelines and in anticipation of changes to the Wisconsin Statutes, percentage orders will no longer be ordered in IV-D cases.

a) In the case of previous percentage expressed orders, the responsibility of verifying any overpayment or arrearages will be the responsibility of the parties. Neither the Clerk of Court office nor Child Support Agency will be involved in determining or collecting arrearages on percentage expressed order. At the point a “social services agency” becomes involved in the case or an application for assistance is filed with the Child Support Agency, the CSA would then re-evaluate the support obligation and set a straight monthly dollar amount to satisfy its monitoring needs from that point on.

b) The WI SCTF will receive and disburse any sums forwarded by the individual or employer on percentage orders; but, the parties to the action will remain wholly responsible for exchanging tax information annually for determining the status of payments and collection of arrears, if any exist, and must so state that requirement in any judgments or orders.

7. The KIDS system assesses interest on child support arrearages that are over 60 days past due at a rate of 1.0% per month (12% per annum).

8. Pursuant to Section 767.303 WI Statutes, effective November 1, 1996: any arrearages which accumulate beyond a 90 day time period could trigger a suspension of the payor’s operating privileges upon petition, until the arrearages are paid in full, or up to a 2 year period. (See statute for full details).

9. The KIDS computer needs specific criteria to set up a case within its system, and will not allow receipting or disbursing of any money until such date is complete. The “Confidential Petition Addendum” sheet is to be completed in full, and submitted at the time of the filing of a new action, if said information is not already contained in the “petition”.

10. The Child Support Agency has the responsibility to enter new/modified court orders involving child support into the KIDS system. Attorneys and pro se parties are required to provide a copy of the signed/filed court order to the Agency so it can be entered into the system.

a) Neither the Clerk of Court office nor the Child Support Agency will be responsible for enforcing or determining arrears for any orders where payments were ordered by the Court to be made directly between the parties and not by wage assignment. This also applies if the parties elect to bypass the KIDS system and make direct payments on their own.

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11. If the “Findings of Fact, Conclusions of Law and Judgment” are not completed or ready for the Court’s signature on the date of the final hearing, the “Interim Disbursement Order” must be completed by the parties, their attorneys or the Agency bringing the action as soon as possible. The sooner a copy of the order is provided to the Child Support Agency, the sooner it will be entered into the KIDS system and a Notice for Income Withholding (if needed) mailed to the payor’s employer. This also applies for any motions for an order to modify a previous judgment/order. (Only IV-D cases).

12. Attorneys and Pro Se parties must provide copies of all new pleadings as well as Findings & Judgments in divorce actions with children (or order for maintenance), to the Shawano County Child Support Agency. A copy of all new divorce filings (with or without children) and a copy of the Judgment of Divorce must also be provided to the Family Court Commissioner.

13. Judgments of divorce actions with children must be approved by the Child Support Agency prior to signature of the Court. If the Child Support Agency was not given proper notice (at least 24 hours) of any hearings that specifically relate to child support issues and they disagree with the order as set forth in the judgment, they would have the right to request the Court to set aside those issues in the judgment as it may relate to their Agency.

Source: Original 3/01; revised 1/13

Rule 4: Appearances P&P Dept for PSI reports and revocations

It is not necessary for Agents of the Division of Community Corrections who prepare pre-sentence investigation reports or are revoking clients from probation to attend related hearings unless subpoenaed by the parties or at the request of the Court.

Source: Original 2/01; revised 1/13

Rule 5: Filing of Facsimile Transmissions

Parties are permitted to file papers for the Menominee-Shawano Circuit Court by facsimile transmission through the Clerk of Court at (715) 526-4915. No additional copies are required to be mailed. The faxed document will be considered the original.

The procedure shall be consistent with the Supreme Court’s Rules of Civil Procedure pursuant to Wisconsin Statute 801.16(2)(a).

Source: Original 7/01; revised 1/13

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Rule 6: Medical and Genetic Biological Information TPR's

The petitioning agency or attorney file with the Court medical and genetic data as required per Section 48.425 Wisconsin Statutes.
In the alternative, counsel will have to explain in writing why such data is unobtainable.
No final disposition will be made until this information is in the file.

Source: Original 11/02; revised 1/13

Rule 7: Court appearance requirements

In all traffic and criminal cases, defendants and their attorneys shall attend all pretrials and trials in person unless excused by the Court.

Source: Original 3/03; revised 1/13

Rule 8: Posting of Appearance Bonds

No personal checks will be accepted for the purpose of posting bail bonds. Cash, money orders, certified checks or credit cards (through GPS, Inc. or Wisconsin Circuit Court Access Program) will be the only accepted method of payment by either the Shawano County Sheriff's Dept. or the Clerk of Court Office.

Source: Original 10/04; revised 1/13

Rule 9: Huber/Work Release Transfers

In order to expedite transfers of Huber inmates to other jurisdictions, the Court will allow the Huber/Work Release Center to modify any jail report date of a defendant, from the original Judgment of Conviction, without first contacting the sentencing Judge for approval, or requiring an amended Judgment of Conviction be prepared. The only exception is that said report date cannot exceed 60 days from the sentencing date.

The Huber/Work Release Center will also notify the Clerk of Court office via e-mail or fax of any modifications to the original Judgment of Conviction. In all other respects their present practices will continue.

Source: Original 4/05; revised 1/13

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Rule 10: Timeline for filing traffic citations and probable cause information

In order to insure consistent procedures are followed, and that defendants are not making unnecessary appearances to Court because criminal complaints are not filed in a timely manner, the following procedures are to be initiated:

The Court is requiring that all **original citations** written for the Circuit Court **must be filed with the Clerk of Court** by the issuing agency within the required 72 hour time frame.

Initial appearance dates noted on all citations should not be less than 4 weeks out from the date of issuance for routine traffic matters. In the case of OWI citations, the initial appearance date should not be less than 6 weeks, or more than 8 weeks from the date of issuance. The longer period of time on the OWI cases is to enable processing of the blood test results.

When paperwork is needed for the District Attorney's Office to process criminal charges based on the original citation filed with the Clerk of Court, it is the issuing agency's responsibility to supply a "copy" of the citation with any supporting documentation to the D.A. as soon as possible, but in no case later than 3 weeks prior to the return date.

If a defendant appears in Court with no citation and/or criminal complaint being on file, the case will not be adjourned, it will be dismissed without prejudice.

Source: Original 4/05; revised 1/13

Rule 11: Family Court Commissioner Filings

Each party filing an annulment, legal separation or divorce action will provide a copy of the Petition, Order to Show Cause and Affidavit to the Family Court Commissioner within one week of filing the action whether or not a hearing is requested. In a divorce action if on aid, which includes Badger Care, a temporary hearing is required unless the Parties and Child Support Agency stipulate otherwise, or there is an existing compelled support order in place.

Financial disclosure statements are to be filed with the Family Court Commissioner at the time of the temporary hearing. (A duplicate or updated financial disclosure statement will also be required at the final divorce hearing).

A copy of any post-judgment motion or order to show cause that is intended for review or activity by the Family Court Commissioner or any other pleading which requires

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mediation between parents concerning time spent with their children must be provided within one week of filing to the Family Court Commissioner.

Source: Original 2/07; revised 1/13

Rule 12: Speedy Trial Demand

Any oral requests for a speedy trial demand are to be followed up in writing with the Clerk of Court Office. The filing party or attorney shall file a copy on the same date with the Circuit Court assigned to handle the case. Delivery shall be made by mail or in person to the judicial office.

Source: Original 10/07; revised 1/13

Rule 13: When Record is Silent; Clerk's Authority

In those cases where the record is silent, any of the following that are statutorily mandated for the offense for which the defendant has been convicted, the clerk of court shall have the authority to do the following:

- Revoke or suspend driving privileges including, if there is a range of time, the minimum revocation or suspension;
- Assess any domestic abuse surcharge, if the judge has made the necessary finding;
- Assess any DNA surcharge or sample; if applicable; and,
- Assess all other mandatory costs, fees, assessments, or surcharges, or require an alcohol assessment.

Upon exercising such authority, the clerk shall make an appropriate notation on the minute sheet and initial the same.

Source: Original 7/15

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