

State of Wisconsin



2023 Assembly Bill 966

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2023 WISCONSIN ACT 235

AN ACT *to amend* 19.36 (11) and 19.55 (1); and *to create* 8.10 (7), 19.36 (14), 19.55 (2) (cm), 59.43 (1r) and 757.07 of the statutes; **relating to:** privacy protections for judicial officers, granting rule-making authority, and providing a penalty.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 8.10 (7) of the statutes is created to read:

8.10 (7) (a) Notwithstanding sub. (2) (b) and (c) and s. 8.21 (4) (b), a candidate for filling the office of a judicial officer, as defined in s. 757.07 (1) (e), who files a certification of residence with the commission before circulating nomination papers is not required to indicate his or her residential address on the nomination papers, including nomination papers circulated on behalf of the judicial officer, or on the declaration of candidacy. Notwithstanding sub. (3) (intro.), a judicial officer, as defined in s. 757.07 (1) (e), who intends to circulate nomination papers on behalf of a candidate for filling a nonpartisan office, or who intends to sign nomination papers to support such a candidate, is not required to indicate his or her residential address on the certification of a qualified circulator appended to the nomination papers or on the nomination papers as a signatory. The commission shall promulgate rules for the administration of this subsection and prescribe a certification of residence for a candidate or circulating judicial officer for use under this subsection.

(b) Certifications of residence submitted to the commission under par. (a) shall be kept confidential unless

the judicial officer consents to disclosure under s. 757.07 (4) (e), except that the commission shall provide such certifications to the appropriate filing officer for the office the candidate or judicial officer seeks. Filing officers shall also keep confidential the certifications received by the commission unless the judicial officer consents to disclosure.

SECTION 2. 19.36 (11) of the statutes is amended to read:

19.36 (11) RECORDS OF AN INDIVIDUAL HOLDING A LOCAL PUBLIC OFFICE OR A STATE PUBLIC OFFICE. Unless access is specifically authorized or required by statute, an authority shall not provide access under s. 19.35 (1) to records, except to an individual to the extent required under s. 103.13, containing information maintained, prepared, or provided by an employer concerning the home address, home electronic mail address, home telephone number, or social security number of an individual who holds a local public office or a state public office, unless the individual authorizes the authority to provide access to such information. This Except as provided in sub. (14), this subsection does not apply to the home address of an individual who holds an elective public office or to the home address of an individual who, as a condition of employment, is required to reside in a specified location.

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

SECTION 3. 19.36 (14) of the statutes is created to read:

19.36 (14) **PRIVACY PROTECTIONS FOR JUDICIAL OFFICERS.** If a judicial officer, as defined in s. 757.07 (1) (e), submits a written request under s. 757.07 (4), an authority shall not provide access under s. 19.35 (1) to a certification of residence under s. 8.10 (7) or to the personal information, as defined in s. 757.07 (1) (g), of a judicial officer, except as provided under s. 8.10 (7) (b).

SECTION 4. 19.55 (1) of the statutes is amended to read:

19.55 (1) Except as provided in subs. (2) to (4) and s. 19.36 (14), all records under ch. 11, this subchapter, or subch. III of ch. 13 in the possession of the commission are open to public inspection at all reasonable times. The commission shall require an individual wishing to examine a statement of economic interests or the list of persons who inspect any statements which are in the commission's possession to provide his or her full name and address, and if the individual is representing another person, the full name and address of the person which he or she represents. Such identification may be provided in writing or in person. The commission shall record and retain for at least 3 years information obtained by it pursuant to this subsection. No individual may use a fictitious name or address or fail to identify a principal in making any request for inspection.

SECTION 5. 19.55 (2) (cm) of the statutes is created to read:

19.55 (2) (cm) If a judicial officer, as defined in s. 757.07 (1) (e), submits a written request under s. 757.07 (4), the personal information, as defined in s. 757.07 (1) (g), of a judicial officer contained in statements of economic interests, reports of economic transactions, and campaign finance reports that are filed with the commission by judicial officers or the candidate committees of judicial officers. The commission shall quarterly review the electronic campaign finance information system for the personal information of judicial officers and remove such information from the system. In addition, before providing, upon a request, a statement of economic interests of a judicial officer, the commission shall remove the personal information of the judicial officer.

SECTION 6. 59.43 (1r) of the statutes is created to read:

59.43 (1r) **PERSONAL INFORMATION OF JUDICIAL OFFICERS.** The register of deeds shall shield from disclosure and keep confidential documents containing information covered by a written request of a judicial officer under s. 757.07, if the judicial officer specifically identifies the document number of any document to be shielded under this subsection. This subsection applies only to electronic images of documents specifically identified by a judicial officer as covered by a written request under s. 757.07. The register of deeds may allow access to a document subject to protection under this subsection only if

the judicial officer consents to the access or access is otherwise permitted as provided under s. 757.07 (4) (e).

SECTION 7. 757.07 of the statutes is created to read:

757.07 Privacy protections for judicial officers.

(1) **DEFINITIONS.** In this section:

(a) "Data broker" means a commercial entity that collects, assembles, or maintains personal information concerning an individual who is not a customer or an employee of that entity in order to sell the information or provide 3rd-party access to the information. "Data broker" does not include any of the following:

1. A commercial entity using personal information internally, providing access to businesses under common ownership or affiliated by corporate control, or selling or providing data for a transaction or service requested by or concerning the individual whose personal information is being transferred.

2. A commercial entity providing publicly available information through real-time or near real-time alert services for health or safety purposes.

3. A commercial entity using information that is lawfully made available through federal, state, or local government records, or information that a business has a reasonable basis to believe is lawfully made available to the general public through widely distributed media, by the consumer, or by a person to whom the consumer has disclosed the information, unless the consumer has restricted the information to a specific audience.

4. A commercial entity engaged in the collection, maintenance, disclosure, sale, communication, or use of any personal information bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living by a consumer reporting agency, furnisher, or user that provides information for use in a consumer report, and by a user of a consumer report, but only to the extent that such activity is regulated by and authorized under the federal Fair Credit Reporting Act, 15 USC 1681, et seq.

5. A consumer reporting agency subject to the federal Fair Credit Reporting Act, 15 USC 1681, et seq.

6. A commercial entity using personal information collected, processed, sold, or disclosed in compliance with the federal Driver's Privacy Protection Act of 1994, 18 USC 2721, et seq.

7. A commercial entity using personal information to do any of the following:

a. Prevent, detect, protect against, or respond to security incidents, identity theft, fraud, harassment, malicious or deceptive activities, or any illegal activity.

b. Preserve the integrity or security of systems.

c. Investigate, report, or prosecute any person responsible for an action described under subd. 7. a. or b.

8. A financial institution, affiliate of a financial institution, or data subject to title V of the federal Gramm-Leach-Bliley Act, 15 USC 6801, et seq.

9. A covered entity for purposes of the federal privacy regulations promulgated under the federal Health Insurance Portability and Accountability Act of 1996, specifically 42 USC 1320d-2 note.

10. A commercial entity engaging in the collection and sale or licensing of personal information incidental to conducting the activities described in subds. 1. to 9.

11. Insurance and insurance support organizations.

12. Law enforcement agencies or law enforcement support organizations and vendors.

(b) "Government agency" includes any association, authority, board, department, commission, independent agency, institution, office, society, or other body corporate and politic in state or local government created or authorized to be created by the constitution or any law.

(c) "Home address" includes a judicial officer's permanent residence and any secondary residences affirmatively identified by the judicial officer. "Home address" does not include a judicial officer's work address.

(d) "Immediate family" includes any of the following:

1. A judicial officer's spouse.
2. A minor child of the judicial officer or of the judicial officer's spouse, including a foster child, or an adult child of the judicial officer or of the judicial officer's spouse whose permanent residence is with the judicial officer.
3. A parent of the judicial officer or the judicial officer's spouse.
4. Any other person who resides at the judicial officer's residence.

(e) "Judicial officer" means a person who currently is or who formerly was any of the following:

1. A supreme court justice.
2. A court of appeals judge.
3. A circuit court judge.
4. A municipal judge.
5. A tribal judge.
6. A temporary or permanent reserve judge.
7. A circuit, supplemental, or municipal court commissioner.

(f) "Permanent residence" means the place where a person's habitation is fixed, without any present intent to move, and to which, when absent, the person intends to return.

(g) "Personal information" means any of the following with regard to a judicial officer or any immediate family member of a judicial officer, but does not include information regarding employment with a government agency:

1. A home address.
2. A home or personal mobile telephone number.
3. A personal email address.
4. A social security number, driver's license number, federal tax identification number, or state tax identification number.

5. Except as required under ch. 11, a bank account or credit or debit card information.

6. A license plate number or other unique identifiers of a vehicle owned, leased, or regularly used by a judicial officer or an immediate family member of a judicial officer.

7. The identification of children under the age of 18 of a judicial officer or an immediate family member of a judicial officer.

8. The full date of birth.

9. Marital status.

(h) "Publicly available content" means any written, printed, or electronic document or record that provides information or that serves as a document or record maintained, controlled, or in the possession of a government agency that may be obtained by any person or entity, from the Internet, from the government agency upon request either free of charge or for a fee, or in response to a public records request under ch. 19.

(i) "Publicly post or display" means to intentionally communicate or otherwise make available to the general public.

(j) "Transfer" means to sell, license, trade, or exchange for consideration the personal information of a judicial officer or a judicial officer's immediate family member.

(k) "Written request" means written notice signed by a judicial officer or a representative of the judicial officer's employer requesting a government agency, business, association, or other person to refrain from publicly posting or displaying publicly available content that includes the personal information of the judicial officer or judicial officer's immediate family.

(2) PUBLICLY POSTING OR DISPLAYING A JUDICIAL OFFICER'S PERSONAL INFORMATION BY A GOVERNMENT AGENCY.

(a) A government agency may not publicly post or display publicly available content that includes a judicial officer's personal information, provided that the government agency has received a written request in accordance with sub. (4) that it refrain from disclosing the judicial officer's personal information. After a government agency has received a written request, that agency shall remove the judicial officer's personal information from publicly available content within 10 business days. After the government agency has removed the judicial officer's personal information from publicly available content, the agency may not publicly post or display the information, and the judicial officer's personal information shall be exempt from inspection and copying under s. 19.35 unless the government agency has received consent as provided under sub. (4) (e) to make the personal information available to the public.

(b) Nothing in this subsection prohibits a government agency from providing access to records containing the personal information of a judicial officer to a 3rd party if the 3rd party meets any of the following criteria:

1. Possesses a signed consent document, as provided under sub. (4) (e).
2. Is subject to the requirements of 15 USC 6801, et seq.
3. Executes a confidentiality agreement with the government agency.

(3) DATA BROKERS AND OTHER PERSONS AND BUSINESSES. (a) No data broker may knowingly sell, license, trade, purchase, or otherwise make available for consideration the personal information of a judicial officer or a judicial officer's immediate family, provided that the judicial officer has made a written request to the data broker. The data broker shall cease knowingly selling, licensing, trading, purchasing, or otherwise making available personal information for consideration pursuant to the written request within 10 business days of the written request.

(b) 1. No person, business, or association may publicly post or display on the Internet publicly available content that includes the personal information of a judicial officer or the judicial officer's immediate family, provided that the judicial officer has made a written request to the person, business, or association that it refrain from disclosing or acquiring the personal information.

2. Subdivision 1. does not apply to any of the following:

a. Personal information that the judicial officer or an immediate family member of the judicial officer voluntarily publishes on the Internet after the effective date of this subd. 2. a. [LRB inserts date].

b. Personal information lawfully received from a state or federal government source, including from an employee or agent of the state or federal government.

(c) 1. After a person, business, or association has received a written request from a judicial officer to protect the privacy of the personal information of the judicial officer and the judicial officer's immediate family, the person, business, or association shall remove, within 10 business days, the publicly posted or displayed personal information identified in the request; ensure that the information is not publicly posted or displayed on any website or subsidiary website controlled by that person, business, or association; and identify any other publicly posted or displayed instances of the identified information that should also be removed.

2. After receiving a judicial officer's written request, no person, business, or association may transfer the judicial officer's personal information to any other person, business, or association through any medium, except as follows:

a. The person, business, or association may transfer personal information that the judicial officer or an immediate family member of the judicial officer voluntarily publishes on the Internet after the effective date of this subd. 2. a. [LRB inserts date].

b. The person, business, or association may transfer the judicial officer's personal information at the request of the judicial officer if the transfer is necessary to effectuate a request to the person, business, or association from the judicial officer.

(4) PROCEDURE FOR COMPLETING A WRITTEN REQUEST FOR PROTECTION OF PERSONAL INFORMATION. (a) No government agency, person, data broker, business, or association may be found to have violated any provision of this section if the judicial officer fails to submit a written request calling for the protection of the personal information of the judicial officer or the judicial officer's immediate family.

(b) 1. A written request under this subsection is valid if the request meets the requirements of par. (d) and if the judicial officer does any of the following:

a. Sends the written request directly to a government agency, person, data broker, business, or association.

b. If the director of state courts has a policy and procedure for a judicial officer to file the written request with the director of state court's office to notify government agencies, the judicial officer sends the written request to the director of state courts.

2. In each quarter of a calendar year, the director of state courts shall provide to the appropriate officer with ultimate supervisory authority for a government agency a list of all judicial officers who have submitted a written request under subd. 1. b. The officer shall promptly provide a copy of the list to the government agencies under his or her supervision. Receipt of the written request list compiled by the director of state courts office by a government agency shall constitute a written request to that agency for purposes of this subsection.

(c) A representative from the judicial officer's employer may submit a written request on the judicial officer's behalf, provided that the judicial officer has given written consent to the representative and provided that the representative agrees to furnish a copy of that consent when the written request is made. The representative shall submit the written request as provided under par. (b).

(d) A judicial officer's written request shall be made on a form prescribed by the director of state courts and shall specify what personal information shall be maintained as private. If a judicial officer wishes to identify a secondary residence as a home address, the designation shall be made in the written request. A judicial officer's written request shall disclose the identity of the officer's immediate family and indicate that the personal information of these family members shall also be excluded to the extent that it could reasonably be expected to reveal personal information of the judicial officer. Any person receiving a written request form submitted by or on behalf of a judicial officer under this paragraph shall treat the submission as confidential.

(e) 1. A judicial officer’s written request is valid for 10 years or until the judicial officer’s death, whichever occurs first.

2. Notwithstanding a judicial officer’s written request, a government agency, person, data broker, business, or association may release personal information otherwise subject to the written request under any of the following circumstances:

a. As required in response to a court order.

b. If a judicial officer or immediate family member of the judicial officer consents to the release of his or her own personal information as provided under subd. 3.

c. If the judicial officer provides the government agency, person, data broker, business, or association with consent to release the personal information as provided under subd. 3.

3. A judicial officer or immediate family member of the judicial officer may consent to release personal information otherwise protected by a judicial officer’s written request if the consent is made in writing on a form prescribed by the director of state courts. An immediate family member of the judicial officer may only consent to the release of his or her own personal information.

4. A judicial officer under sub. (1) (e) 1. to 3., or 6. may designate the director of state courts as the judicial officer’s agent for purposes of service of process, and if the director of state courts receives service of process, notice, or demand required or permitted by law to be served on a judicial officer who has designated the director of state courts as his or her agent for purposes of service of process under this subdivision, the director of state courts shall forward the process, notice, or demand to the judicial officer’s home address.

(4m) (a) In this subsection, “land records website” means a public website that allows users to search and retrieve a real estate property database or geographic records.

(b) Any provider of a public-facing land records website shall establish a process for judicial officers and immediate family members of judicial officers to opt out from the display and search functions of their names on the provider’s public-facing land records website.

(5) (a) A judicial officer whose personal information is made public as a result of a violation of this section may bring an action seeking injunctive or declaratory relief in any court of competent jurisdiction. Notwithstanding s. 814.04, if the court grants injunctive or declaratory relief, the governmental agency, business, association, data broker, or other person responsible for the violation shall be required to pay the judicial officer’s costs and reasonable attorney fees.

(b) Provided that an employee of a government agency has complied with the conditions set forth in sub. (2), it is not a violation of this section if an employee of a government agency publishes personal information, in good faith, on the website of the government agency in the ordinary course of carrying out public functions.

(c) It is unlawful for any person to knowingly publicly post or display on the Internet the personal information of a judicial officer or of the judicial officer’s immediate family if the person intends the public posting or display of the personal information to create or increase a threat to the health and safety of the judicial officer or the judicial officer’s immediate family and, under the circumstances, bodily injury or death of the judicial officer or a member of the judicial officer’s immediate family is a natural and probable consequence of the posting or display. A person who violates this paragraph is guilty of a Class G felony.

(6) This section shall be construed broadly to favor the protection of the personal information of judicial officers and the immediate family of judicial officers.

SECTION 8. Effective date.

(1) This act takes effect on the first day of the 13th month beginning after publication.