



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-5526/1
SWB&JK:wlj

2023 SENATE BILL 927

January 19, 2024 - Introduced by Senators WANGGAARD and TAYLOR, cosponsored by Representatives TUSLER and ORTIZ-VELEZ. Referred to Committee on Judiciary and Public Safety.

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

Analysis by the Legislative Reference Bureau

This bill establishes privacy protections for judicial officers and a procedure for a judicial officer to complete a written request for protection of the personal information of the judicial officer and the judicial officer's immediate family.

Under the bill, 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 from the officer that the agency refrain from disclosing the personal information. Upon receipt of the written request, the agency must remove the personal information within five business days and may not publicly post or display the information. The personal information is also exempt from public records requests unless the agency has received consent to make the information available to the public.

The bill also provides that, upon receipt of a written request for privacy protections from a judicial officer, all persons, businesses, and associations must refrain from publicly posting or displaying on the Internet publicly available content that includes the personal information of the judicial officer or the judicial officer's immediate family. The prohibition does not apply to personal information

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that the judicial officer or an immediate family member of the judicial officer voluntarily publishes on the Internet after the bill goes into effect or personal information lawfully received from a state or federal government source, including from an employee or agent of the state or federal government.

After a person, business, or association has received a written request from a judicial officer, the person, business, or association must, within 72 hours of the request, remove the personal information from the Internet; ensure that the judicial officer's personal information is not made available on any website or subsidiary website controlled by that person, business, or association; and identify any other instances of the identified information that should also be removed. Under the bill, once a written request is received, no person, business, or association may transfer the judicial officer's personal information to any other person, business, or association through any medium, except for personal information that the judicial officer or an immediate family member of the judicial officer voluntarily publishes on the Internet after the bill goes into effect, or if a transfer is made at the request of the judicial officer or is necessary to effectuate a request to the person, business, or association from the judicial officer. The bill also expressly prohibits a data broker, as defined in the bill, from knowingly selling, licensing, trading, purchasing, or otherwise making available for consideration the personal information of a judicial officer or a judicial officer's immediate family.

Under the bill, a candidate for a judicial office may, instead of having his or her name and residential address listed on nomination papers, file a certification of residence with the Elections Commission before circulating nomination papers. A judicial officer circulating nomination papers on behalf of a candidate for a nonpartisan office, or signing nomination papers supporting a candidate for a nonpartisan office, may similarly file a certification of residence with the Elections Commission before circulating or signing nomination papers. The bill requires the commission, by rule, to verify the address provided in the certification of residence. Under current law, generally, a candidate for a state or local elective office must file nomination papers with the commission or, for a local office, with the appropriate municipal clerk. The top of each nomination paper must list the candidate's full name, including any nickname or former surname, and his or her residential street address. Under current law, a person circulating nomination papers on behalf of a candidate for a judicial office must also provide a certification at the bottom of each nomination paper stating his or her residential street address.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

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

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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 until the candidate or judicial officer files a declaration of noncandidacy, 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 until the candidate or judicial officer files a declaration of noncandidacy.

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

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

19.36 (14) PRIVACY PROTECTIONS FOR JUDICIAL OFFICERS. 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) (f), of a judicial officer, as defined in s. 757.07 (1) (e), 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 s. 19.36 (14) and subs. (2) to (4), 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

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

4. A financial institution subject to the requirements of 15 USC 6801, et seq., and federal regulations implementing those provisions.

5. A covered entity for purposes of the federal privacy regulations

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promulgated under the federal Health Insurance Portability and Accountability Act of 1996, specifically 42 USC 1320d-2 note.

6. A commercial entity engaging in the collection and sale or licensing of personal information incidental to conducting the activities described in subds. 1. to 5.

(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 child of the judicial officer or of the judicial officer’s spouse, including a foster child or an adult child not residing 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 any of the following, whether living or deceased:

1. A justice or former justice of the supreme court.
2. A judge or former judge of the court of appeals.
3. A judge or former judge of any circuit court.
4. A municipal judge or former municipal judge in this state.

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5. A circuit court commissioner or former circuit court commissioner in this state.

(f) “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. 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. Information regarding current or future school or day care attendance, including the name or address of the school or day care, schedules of attendance, or routes taken to or from the school or day care by a judicial officer or an immediate family member of a judicial officer.
10. Information regarding an employment location, including the name or

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address of the employer, employment schedules, or routes taken to or from the employer by a judicial officer or an immediate family member of a judicial officer.

11. Marital status.

(g) “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.

(h) “Publicly post or display” means to intentionally communicate or otherwise make available to the general public.

(i) “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.

(j) “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

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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 5 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 from the judicial officer 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 release from the judicial officer.
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.

(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

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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 from the Internet, within 72 hours, the personal information identified in the request; ensure that the information is not made available on any website or subsidiary website controlled by that person, business, or association; and identify any other 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].

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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, 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) A written request under this subsection is valid if all of the following are true:

1. The judicial officer sends a written request directly to a government agency, person, business, or association.

2. 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 may send the written request to the director of state courts. 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 the written request under this subsection. 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

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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 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.

(e) A judicial officer's written request is valid until one of the following occurs:

1. The judicial officer provides the government agency, person, business, or association with written permission to release the personal information.

2. The death of the judicial officer.

(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,

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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 6. Effective date.

(1) This act takes effect on the first day of the 7th month beginning after publication.

(END)