# Wisconsin Counties Association ANNUAL CONFERENCE & Exhibit Hall 2022

#### 8:00 - 9:00 AM

Privacy vs. Public Record -Fines That Could Affect Your County

### Privacy vs. Public Record Fines that Could Affect Your County

WCA Conference

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## Genesis of Daniels Law

- Judge Esther Salas
- •Law quickly passes in NJ
- Quickly evolves to Federal Legislation
- Federal bill now has over 70 bipartisan congressional sponsors





### States with Similar Legislation

- •11 States have had for years
- •9 States enacted legislation in 2022
- •6 States have current legislation pending
- •23 States are unprepared
- •Then there's us





## **Ever-changing boundaries**

In all cases, legislation begins with Privacy Shielding for:

- Judges
- Peace Officers

However, it always evolves.....

- AZ: Currently at 33 protected parties
- FL: At last count, 124 protected parties





#### Examples of FL and AZ Groups

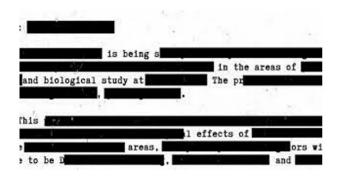
- Attorneys
- Parole Officers
- Probation Officers
- Military
- Victims of Domestic Abuse
- Accountants
- Teachers

- Health Care Staff
  - Doctors
  - Nurses
  - Clerical staff
  - Government OfficialsCounty Board/Commissioners





### Shielding vs Redacted



#### It's not this.....

It's this. It's like the records don't even exist

Name	Recording Number	Recording Date	Document Code
POOLE WARREN	20011068051	11/15/2001	RELEASE
POOLE WARREN			REL D/T
POOLE WARREN			SPEC/W D
POOLE WARREN			SPEC/W D
POOLE WARREN			CORR DEED
POOLE WARREN			CORR DEED
POOLE WARREN B			WAR DEED





#### Why Do Counties Need to Get Involved???

• Prevent "unworkable" legislation

MI SB 869: "A bill to protect the privacy of judges and certain other individuals."

OH HB 93: "If a person wishes to perform a title examination on property that is subject to confidentiality, the person must apply to the Secretary of State for authorization."





#### And there's more

More from OH HB 93

"Under the bill, a real-estate broker/sales title examiner attorney or county official is not liable for damages resulting from the person's failure to discover a defect in title."

• Federal proposed legislation imposes a penalty





#### One More

Again, OH HB 93

"If a program participant buys a house and files a confidentiality notice with the county, the bill WOULD penalize county officials for disclosing certain information but the bill WOULD NOT penalize the participants real-estate agent, bank or title."

Guess who wrote this legislation??





#### They will know who's Naughty or Nice

12	There is authorized to be appropriated to the Ad-
13	ministrative Office of the United States Courts such
14	sums as may be necessary to establish, in coordina-
15	tion with the U.S. Marshals Service and other rel-
16	evant Federal law enforcement and security agen-
17	cies, a new threat management capability for moni-
18	toring all-source information which may:





#### Penalties and Damages to the County

- (2) PENALTIES AND DAMAGES.—If a person, business, or association knowingly violates an order granting injunctive or declarative relief under paragraph (1), the court issuing such order may—
- (A) if the person, business, or association is a government agency—
- (i) impose a fine not greater than \$4,000; and
- (ii) award to the at-risk individual or their immediate family, as applicable, court costs and reasonable attorney's fees
  - Original fine was \$10,000





#### Federal Law Implementation

- Federal Law requires enactment 120 days after passage.
- Most state legislation requires shielding of records anywhere from 5-7 days from notice
- OH bill required compliance in 2 months (VERY DIFFICULT)
- MO bill requires compliance by June 1, 2023





#### Information to be shielded and Departments Affected

	Register of Deeds	Land Information	Land Conservation	Parks	Zoning	GIS	Treasurer	County Clerk	Clerk of Courts
Home Address (primary & secondary)	х	Х	Х	Х	X	Х	Х	X	Х
Telephone Number				х				х	х
Personal Email				х				х	
Social Security Number	х								х
Drivers License				х				х	х
Voter Registration								х	
Bank Account	х								
Credit Card									
Address in Property Tax Records	х	х			х	х	Х		
License Plate				х					
Vehicle Registration								х	
Identification of Children	х								х
Full Date of Birth	х							х	х
Photograph of any Vehicle						х			
Name and Address of Children's Schools									Х
Name and Address of Children's Daycare									Х
Name and Address of Employer									х









### •lt's not if, it's when!





### WI Workable Workflow

- Program Participant
  - Their responsibility to identify documents to be shielded
    - Identify by document number those to be shielded
    - If they don't know how to search, hire an attorney or title company *county staff cannot be responsible*
  - They fill out a form which resides on state website that includes these document numbers
  - This form is given to the court authority within the county
  - Court approves form





### WI Workable Workflow Continued

- County Offices
  - Offices receive form
  - Offices typically have 5-7 days to shield information
  - ROD must have way to provide information to title/legal offices when required
    - Title/attorney can sign confidentiality form
    - Title/attorney can fill out affidavit (including program participant) requesting copies of shielded documents.
  - Offices must have way to notify upon 5-year renewal





#### Grant Programs

(A) the creation of programs to redact or
remove judges' personally identifiable informa-
tion, upon the request of an at-risk individual,

3

(B) the expansion of existing programs

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the development or improvement of (C) protocols, procedures, and policies to prevent the release of judges' personally identifiable information;

> 11 12

(D) the defrayment of costs of modifying or improving existing databases and registries





### WRDA Proactive Movement



- Formation of CRIS committee
  - Confidential Records Identity Shielding
- Insuring a "seat at the table." Main goal of committee
- Have engaged WCA
- Met with WI DOJ's Office
  - Keep us in-the-loop
- Met with WLTA
- WRDA Legislative Committee is working on legislation





#### WRDA Workgroup

- Reviewed the Good, the Bad and the Ugly of other state's legislation
- Proactively wrote sample legislation that works for ROD offices and their business partners
- Shared sample legislation with other associations
- Plan to share sample legislation with business partners
- Once we have buy in from all effected, we will seek to make law





#### Summary: The Effect on the Public Record

- If a record is shielded, you can't get a loan, buy a home
- Title can't insure the transaction
- Participant cannot access record easily
- Slows down the economy when sales can't happen
- **We need to be prepared**
- **We need a seat at the table**
- **\***We need to work together to protect participants





#### Thank You!

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