



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 Officials
 - ❖ County Board/Commissioners

Shielding vs Redacted

[REDACTED]
[REDACTED] is being s [REDACTED]
[REDACTED] in the areas of [REDACTED]
and biological study at [REDACTED]. The pr [REDACTED]
[REDACTED], [REDACTED].
This [REDACTED]
[REDACTED] l effects of [REDACTED]
[REDACTED] areas, [REDACTED] ors wi
e to be D [REDACTED], [REDACTED] and [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)	X	X	X	X	X	X	X	X	X
Telephone Number				X				X	X
Personal Email				X				X	
Social Security Number	X								X
Drivers License				X				X	X
Voter Registration								X	
Bank Account	X								
Credit Card									
Address in Property Tax Records	X	X			X	X	X		
License Plate				X					
Vehicle Registration								X	
Identification of Children	X								X
Full Date of Birth	X							X	X
Photograph of any Vehicle						X			
Name and Address of Children's Schools									X
Name and Address of Children's Daycare									X
Name and Address of Employer									X

It's Coming.....



- It'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

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

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(B) the expansion of existing programs

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

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

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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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