

Wisconsin Counties Association

2025 ANNUAL CONFERENCE ***GAME DAY***

10:30 – 11:30 AM

**Protecting Judicial Privacy: Understanding and
Implementing WI Act 235**

JUDICIAL PRIVACY ACT

2025 WCA Annual Conference

Attorney Andy Phillips, Attolles Law

Attorney Ben Conard, Attolles Law

Stacie Hoffman, Jefferson County Register of Deeds



AGENDA



1. What is the Judicial Privacy Act?
2. Implementation
3. Act 25 – Trailer Legislation



WHAT IS THE JUDICIAL PRIVACY ACT?

2023 Wisconsin Act 235

2023 Wisconsin Act 235

- Enacted March 27, 2024, BUT effective April 1, 2025
- 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.

Who is a Judicial Officer (and therefore Protected)?

“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.

What is the Exemption?

- The exemption only applies to “personal information” identified in a “written request.”
- Any such personal information is exempt from the WPRL.
- Further, any such personal Information is prohibited from being publicly posted or displayed as publicly available content.
 - “Publicly post or display” means to intentionally communicate or otherwise make available to the general public.
 - “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.

What is “Personal Information?”

Under Act 235, “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 (except as required under Wis. Stat. ch. 11)
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.
1. the identification of children under the age of 18 of a judicial officer or an immediate family member of a judicial officer.
2. the full date of birth.
3. marital status.

When does the Exemption Apply?

The exemption only applies to

- a judicial officer if such judicial officer actually submits a written request that his or her personal information be withheld from public access; and immediate family members covered by the written request

To Whom May a Judicial Officer Submit a Written Request?

- A “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.
- A “data broker” – 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 (subject to certain exceptions set forth in the Act).
- Broadly, to any person, business, or association.

Process to Claim Exemption

Judicial Officer must submit a written request, which must:

- a. be made on a form prescribed by the Director of State Courts;
- b. specify what personal information must be maintained as private;
- c. be notarized (Act 25); and
- d. disclose the identity of the judicial 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.

Note: the submission of the written request itself must also be treated as confidential.

"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; and (4) any other person who resides at the judicial officer's residence.

Process to Claim Exemption (cont.)

Judicial officer must also do any one of the following:

- a. send 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, send the written request to the Director of State Courts; or
- 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 in 2.a. or 2.b. The Act requires the Director of State Courts to provide the appropriate officer of a government agency a copy of list of judicial officers requesting protection pursuant to 2.b. each quarter of every calendar year.

For How Long?

- Request is valid for 10 years or until the judicial officer's death, whichever is first.

Important EXCEPTIONS to the Exemption

Notwithstanding a judicial officer's submission of a written request, a government agency may release a judicial officer's personal information under any of the following circumstances:

1. As required in response to a court order;
2. If a judicial officer or immediate family member of the judicial officer consents to the release of his or her own personal information; or
3. If the judicial officer provides the government agency consent to release the personal information. Wis. Stat. § 757.07(4)(e)2. Note: an immediate family member may only consent to the release of his or her own personal information and not the personal information of the judicial officer. Such consent must be provided on a form prescribed by the Director of State Courts.

Important EXCEPTIONS to the Exemption (cont.)

Further, a government agency is permitted to provide access to records containing personal information of a judicial officer to a third party if the third party satisfies any one of the following criteria:

1. The third party possesses a signed consent document, as provided under Wis. Stat. § 757.07(4)(e);
2. The third party is subject to the requirements of 15 USC 6801, *et seq.*; or
3. The third party executes a confidentiality agreement with the government agency.

Special Rule for RODs

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).

Special Rule for “public-facing land records websites”

- Any provider of a “public-facing land records website” is required to 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. Wis. Stat. § 757.07(4m)(b).
- For example, this requirement would apply to a county GIS website that allows the public to search property tax bills and the like.
- The intent of the Act as evidenced by the plain statutory language appears to be that no information is retrieved if a person searches the name of a judicial officer who opted out.



IMPLEMENTATION

2023 Wisconsin Act 235 and
2025 Wisconsin Act 25

Implementation and Challenges

- Numerous interested parties have undertaken analysis and review of Act 235 and its provisions.
- State agencies, counties, municipalities, other local governments, and private entities all face implementation and compliance challenges.
- Based upon the concerns, stakeholders worked with the Legislature in crafting what has become 2025 Wisconsin Act 25 (signed into law on August 8, 2025).

Implementation and Challenges – Q&A

Q: How does a county know if the person making a written request is actually the judicial officer or an immediate family member of a judicial officer?

A:

- A written request must be made on a form prescribed by the Director of State Courts and must be signed by the judicial officer. Any immediate family members also wishing to have their information protected must be included in the judicial officer's written request; not a separate request.
- Act 25 requires that the form be notarized.

Implementation and Challenges – Q&A (cont.)

Q: Should written requests be recorded?

A: No. Act 235 specifically provides that the submission of a written request must be treated as confidential. Likewise, Act 235 does not provide authority for a Register of Deeds Office to record the written request. Act 25 further clarified that all forms related to a shielding request must be treated as confidential.

Implementation and Challenges – Q&A (cont.)

Q: Is a government agency required to notify any other government agencies or third parties that the county has received a written request from a judicial officer?

A: Generally, no. Submission of a written request to a governmental agency or unit does not serve as notice to other governmental agencies or units. A judicial officer is responsible for providing a written request to each entity he or she would like to shield his or her personal information. Act 25 clarified that a governmental agency can designate a point of contact for administration of the Judicial Privacy Law – similar to the designation of a custodian of public records.

Implementation and Challenges – Q&A (cont.)

Q: May a county or other governmental agency otherwise share data containing personal information covered by judicial officer's written request with another governmental agency? What about with another third party (e.g., contract for services)?

A:

- A government agency may need to share a judicial officer's personal information with another entity to the extent required by law or in a contract for services.
- Act 25 clarified that a government agency may provide access to protected personal information in certain circumstances, including the following:
 1. the third party possesses a signed consent document (from the judicial officer);
 2. the third party is subject to the requirements of 15 USC 6801, et seq. (i.e., certain financial institutions);
 3. the third party executes a confidentiality agreement with the government agency;
 4. the third party is another government agency (and is notified of the confidentiality requirements);
 5. the third party is a title insurance company, land surveyor or attorney licensed in Wisconsin;
 6. the third party is an adjacent land owner seeking land records; or
 7. the release is associated with sex offender registration.

Implementation and Challenges – Q&A (cont.)

- Q:** A judicial officer's written request is valid for 10 years (or until the judicial officer's death). When does the 10-year period commence?
- A:** The 10-year period commences upon receipt of the written request. That is, the 10-year period will be specific to each individual requestor.

Implementation and Challenges – Q&A (cont.)

Q: What does “home address” mean? Does “home address” include anything more than just the property’s address?

A:

- “Home address” is defined by Act 235 to include “a judicial officer’s permanent residence and any secondary residence affirmatively identified by the judicial officer.” “Home address” does not include a judicial officer’s work address.” Based on this definition and the context in which “home address” is used in the Act, the term is presumably limited to the actual mailing address of the property.
- Judicial officers may also designate “secondary residence,” which is defined in Act 25 as “a place that is not a person’s permanent residence, but where a person regularly lives for at least 14 days each year.”

Implementation and Challenges – Q&A (cont.)

Q: What about other statutory processes requiring a county to post or public legal notices containing a judicial officer's home address (*e.g.*, a redemption notice, notices for the sale of tax delinquent real estate, etc.)?

A: Act 25 clarifies that if the release of personal information is part of the publication of a notice, including a notice of an administrative hearing or appeal that is required by law, the shielding does not apply.

Implementation and Challenges – Q&A (cont.)

- Q:** Wis. Stat. § 59.43(1r) requires the Register of Deeds to keep confidential electronic images of certain documents identified by a judicial officer in a written request. What about physical records (*e.g.*, microfiche cards)? Must these documents be shielded from being publicly posted or displayed pursuant to Wis. Stat. § 757.07(2)?
- A:** No, the Register of Deeds is only required to prohibit access to electronic images of documents identified in a written request. Section 59.43(1r), on its face, does not apply to physical records. However, clarifying legislation affirming this interpretation would provide certainty to Registers of Deeds.

Implementation and Challenges – Q&A (cont.)

Q: Can a government agency simply delete a judicial officer's name from a database that displays the judicial officer's name and home address? In other words, if a home address does not have a name associated with it, does the home address need to be shielded?

A: Generally speaking, yes. Act 25 provides that, in order to opt out from the display and search functions, a judicial officer must make such request via a written request (i.e., the same as any other request for the protection of personal information under the Judicial Privacy Law). It is important to note that the requirements in Act 25 in this regard would be met through maintenance of a "global" opt out system for any person wishing to maintain anonymity. For example, the process utilized to opt out of Dane County's land records system (where a person's name is not displayed in association with a particular property) that existed prior to Act 25 complies with Act 25's requirements

WHAT'S ON DECK?

- Many states have adopted or are considering laws similar to Act 235.
- Many states have broadened the categories of officials entitled to the benefits of such privacy laws.
- Police officers/sheriff's deputies? Courthouse employees? Politicians?
- Additional clarifications to Act 235/Act 25?

Q&A



Andrew T. Phillips



414.279.0962



aphillips@attolles.com



Bennett J. Conard



414.285.0896



bconard@attolles.com

THANK YOU.

