



Wisconsin Elections Commission

201 West Washington Avenue | Second Floor | P.O. Box 7984 | Madison, WI 53707-7984
(608) 266-8005 | elections@wi.gov | elections.wi.gov

Notice Soliciting Comments Regarding an Economic Impact Analysis

Subject: Proposed rule relating to confidentiality of judicial officer information on certain election materials

Notice Date: March 17, 2025

Comment Period: March 17, 2025 – March 31, 2025

The Wisconsin Elections Commission (Commission) is preparing an economic impact analysis (EIA) for the proposed rule under Scope Statement 096-24 relating to confidentiality of judicial officer information on certain election materials. The scope statement, a preliminary draft of the EIA and a preliminary draft of the rule order are available on the Commission's website, here: <https://elections.wi.gov/draft-rule-chapter-19-confidentiality-judicial-officer-information-certain-election-materials>. The draft documents may be updated following the receipt and consideration of EIA comments.

The Commission must solicit comments on the economic impact of the proposed rule and, if requested, coordinate with local governments on the EIA. The Commission will accept written comments for its confidentiality of judicial officer information on certain election materials rule **until 5 p.m. on March 31, 2025**. Please provide specific information and include any supporting economic data. Please do NOT submit comments on revisions to the rule language. The Commission will hold a separate hearing and comment period for comments on the rule language after proper notice in accordance with ss. 227.17 and 227.18, Stats.

EIA comments may be emailed to brandon.hunzicker@wisconsin.gov or mailed to Brandon Hunzicker, Wisconsin Elections Commission, P.O. Box 7984, Madison, WI 53707-7984.

Any local government unit affected by the rule – this rule would primarily affect municipal clerks and county clerks – may request to coordinate with the Commission on the EIA. Please state this request within your EIA comments. The Commission will contact all local government units that request to coordinate and incorporate their comments into the EIA to the extent feasible.

Under section [227.137](#), Stats., the Commission is soliciting comments on the information listed below:

1. Any implementation or compliance costs that are reasonably expected to be incurred.
2. Actual quantifiable benefits of the proposed rule.
3. Whether the proposed rule would adversely affect in a material way the economy, a sector of the economy, productivity, jobs, or the overall economic competitiveness of the state.
4. Economic impacts of specific alternatives to the proposed rule.
5. Any other economic impacts, or any impacts on the free use of private property, to any affected party

The scope statement did not estimate any economic impact to small businesses, but if you are a small business as defined in § 227.114(1), Stats., please let us know in your comments.

When the EIA is ready, the Commission will submit the rule order and economic impact analysis to the Wisconsin Legislative Council under § 227.15, Stats.

Wisconsin Elections Commissioners

Ann S. Jacobs, chair | Marge Bostelmann | Don M. Millis | Carrie Riepl | Robert Spindell | Mark L. Thomsen

Administrator
Meagan Wolfe

**STATEMENT OF SCOPE
PURSUANT TO WIS. STAT. § 227.24
WISCONSIN ELECTIONS COMMISSION**

Rule No.: Wis. Admin. Code EL Chapter 19

Relating to: Confidentiality of Judicial Officer Information on Certain Election Materials

Rule Type: Emergency Rule and Permanent Rule

FINDING OF EMERGENCY:

This Statement of Scope pertains to the promulgation of an emergency rule under Wis. Stat. § 227.24(1)(a). The preservation of the public peace, safety, and welfare necessitates putting the rule into effect prior to the time it would take effect if the agency complied with the permanent rulemaking procedures. Wis. Stat. § 227.24(1)(a).

The preservation of peace, safety, and welfare of Wisconsin elections necessitates putting this rule into effect prior to the time it would take to promulgate it normally under chapter 227. 2023 Wisconsin Act 235 (“Act 235”) goes into effect on April 1, 2025, and requires the Commission to promulgate rules for its administration. While the Commission intends to promulgate a simultaneous permanent rule on this topic, an emergency rule is necessary to ensure that the Legislature-directed process is in place when the law goes into effect. Act 235 will protect the personal information of judicial officers, a large majority of whom have experienced increase risk of threats, harassment, and violence in recent years. Having an administrative rule approved and ready to go into effect on April 1, 2025, will ensure that Commission staff follow specific procedures to ensure the proper handling of protected judicial officer information. There may not be time to promulgate the permanent version of this rule prior to April 1, 2025, especially considering that the remainder of 2024 will require much of the Commission’s attention for two major elections on August 13, 2024, and November 5, 2024.

RULE ANALYSIS

Pursuant to §§ 227.24(1)(e)1d. & 227.135(1):

a) A description of the objective of the proposed rule.

Act 235 was legislated and passed in response to several high-profile incidents of violence against the judiciary, both within Wisconsin and nationally. Among other provisions, Act 235 provides judicial officers with the option to file a certification of residence with the Commission instead of listing their residential address on nomination papers, declarations of candidacy, and circulator certifications. The proposed rule will promulgate specific procedures to facilitate this process within the existing framework of ballot access requirements and civic participation.

b) Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives.

Judicial officers who are elected officials must file nomination papers and declarations of candidacy to appear on the ballot to be elected. Wis. Stat. §§ 8.10, 8.15, 8.20. Any candidate who circulates nomination

papers is required to provide their residential address on those papers. Wis. Stat. §§ 8.10(2)(b), 8.15(5)(a), 8.20(2)(a). Likewise, candidates are also required to file a declaration of candidacy, which also asks them to provide their residential address. Wis. Stat. § 8.21(1). Separate from the candidate process, any qualified individual may also circulate nomination papers, or certain election petitions, which also requires them to provide their residential address. Wis. Stat. §§ 8.10(3); 8.15(4)(a); 8.20(3); 8.40(2). Nomination papers, declarations of candidacy, and election petitions are all public records. Wis. Stat. § 19.32(2).

There is currently no administrative process in place for a judicial officer to file a certification of residence with the Commission.

The proposed rule would establish procedures by which judicial officers may file a certification of residence with the Commission if they do not wish to provide their residential address on their nomination papers, declaration of candidacy, or circulator certification. The proposed rule would also establish procedures by which the Commission shall provide such certifications of residence to local filing officers. The proposed rule would prescribe procedures by which both the Commission and local filing officers should confirm candidate residency when a judicial officer files a certification of residence. Finally, the proposed rule would establish procedures by which the certifications of residence shall be kept confidential, as well as procedures by which judicial officers can consent to disclosure.

The alternative would be to not promulgate this rule, leaving the Commission without a clear process in place to receive certifications of residence from judicial officers. The Commission could attempt to comply with the new obligations imposed by Act 235 through internal policy or guidance documents, but those would not carry the force of law.

c) Detailed explanation of statutory authority for the rule (including the statutory citation and language).

General Authority pursuant to Wis. Stat. § 5.05(1): “General authority. The elections commission shall have the responsibility for the administration of chs. 5 to 10 and 12 and other laws relating to elections and election campaigns, other than laws relating to campaign financing. Pursuant to such responsibility, the commission may:

- (f) Promulgate rules under ch. 227 applicable to all jurisdictions for the purpose of interpreting or implementing the laws regulating the conduct of elections or election campaigns, other than laws regulating campaign financing, or ensuring their proper administration.”

Specific Authority pursuant to Wis. Stat. § 8.07: “The commission shall promulgate rules under this chapter for use by election officials in determining the validity of nomination papers and signatures thereon.”

Specific Authority pursuant to Act 235: “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.”

Agency Rulemaking Authority pursuant to Wis. Stats. § 227.11(2)(a): “Agency rulemaking authority. Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.”

d) An estimate of the amount of time agency employees will spend developing the proposed rule and of other resources needed to develop the rule.

WEC staff estimates that it would take approximately 100 staff hours to draft a scope statement and carry out the subsequent steps to promulgate an administrative rule.

e) A description of all of the entities that may be affected by the proposed rule.

The proposed rule would affect all judicial officers, as defined by Wis. Stat. § 757.07(1)(e). It would also affect clerks, election officials, candidates, and individuals interested in ensuring that judicial candidates follow the required procedure to seek ballot access for an office for which they are qualified. The rule is likely to provide the necessary clarity and authority for a process to manage judicial certifications of residence, including how local filing officers and Commission staff can still confirm that judicial candidates meet the residence requirements for the offices they seek. The proposed rule would require minimal compliance outreach and training to clerks because of their familiarity with ballot access as local filing officers. The proposed rule should minimize the risk that a judicial officer's protected information is inadvertently released by providing clear procedures for how the Commission will receive and process certifications of residence. The effect of the proposed rule, and subsequent processes, would have little to no impact on small businesses.

f) A summary and preliminary comparison of any existing or proposed federal regulation that addresses or is intended to address the activities to be regulated by the proposed rule.

The Daniel Anderl Judicial Security and Privacy Act requires government agencies and private actors to remove the personal information of judges from public view within 72 hours of receiving a request for removal. Pub. L. 117-263, div. E, title LIX, subtitle D, Dec. 23, 2022, 136 Stat. 3458. However, this federal law does not specifically address election paperwork for judges, nor does it include any provisions for how states can regulate and protect judicial information when it is required by state law for certain processes.

Agency Contact Person:

Angela O'Brien Sharpe, Staff Attorney
(608) 264-6764, angela.sharpe@wisconsin.gov



Meagan Wolfe
Administrator, Wisconsin Elections Commission
August 20, 2024
Date Submitted

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

<p>1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected</p>	<p>2. Date 3/17/2025</p>
<p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) Chapter EL 19, Confidentiality of Judicial Officer Information on Certain Election Materials</p>	
<p>4. Subject The proposed administrative rule carries out the legislative directive in Wis. Stat. § 8.10(8) for the Wisconsin Elections Commission to promulgate rules to allow judicial candidates and judicial officers to withhold their residential address information on nomination papers and declarations of candidacy. The rule prescribes what must be included on the certificate of residence that must be submitted to the Commission and how the Commission will process a form once received. The rule details the specific instances in which a judicial candidate and judicial officer may withhold residential information, and instead add "Residence Certified with WEC" in the spaces on the forms asking for residence information. The rule also details how the Commission will communicate this information to the municipal or county clerks who may be processing nomination papers signed by such officers and candidates. The rule also details that a new form must be submitted when any information on the form changes, such as running for election to a new office or for reelection, or if an address changes.</p>	
<p>5. Fund Sources Affected <input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S</p>	<p>6. Chapter 20, Stats. Appropriations Affected Wis. Stat. s. 20.510</p>
<p>7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget</p>	
<p>8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input checked="" type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)</p>	
<p>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0.00</p>	
<p>10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	
<p>11. Policy Problem Addressed by the Rule Wis. Stat. § 8.10(8) allows judicial officers and judicial candidates to withhold residential information on nomination papers and declaration of candidacy forms, but does not address the specific mechanics of carrying out these processes on the state and local level. The rule provides these mechanisms and prescribes what information must be included on a certificate of residency document. The rules will clarify for judicial candidates, judicial officer, and local municipal and county clerks what needs to be submitted, when, and what needs to change after a sufficient certificate has been received and acknowledged by the Commission.</p>	
<p>12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. The rule will allow former and current judicial officers, as well as candidates for such offices, to withhold their residential address information on nomination papers and declarations of candidacy, though it would not require them to do so. The rule will also affect the Commission and municipal and county clerks, who will receive certificate of residence forms and who will need to use those forms when reviewing nomination papers and declarations of candidacy. The rule provides a mechanism for the Commission to notify clerks when a form pertaining to their jurisdiction is received, and to maintain a database that can be consulted when necessary. The rule would not affect any businesses, business sectors, associations, or any individuals who are not judicial officers or candidates.</p>	

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13. Identify the Local Governmental Units that Participated in the Development of this EIA.
To be determined

14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

Minimal. Judicial Officers and Candidates may choose to submit a certificate of residence document if they choose, but there would be no cost to them to do so. Municipal and County clerks already need to review nomination papers and declaration of candidacy documents for sufficiency, and if they see a form with "Residence Certified with WEC" on such a form, they will need to check to see if a proper certificate of residency has been filed, and the WEC database would be available for this purpose. It may add a small amount of time for the limited number of documents that would contain this information, but should not require hiring any new staff or purchasing any materials. The Commission itself will need to establish procedures and a database to carry out the processes, but it will also not need to hire any additional staff to perform these tasks.

15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The benefit of implementing this rule is that rulemaking on this topic is required by Wis. Stat. § 8.10(8) and will provide judicial officers and candidates with the information they need to submit certificate of residency forms and the subsequent process for filling out nomination papers and declaration of candidacy documents, and it will provide municipal and county clerks with the information they need to evaluate nomination papers and declarations of candidacy that are submitted to them. The only alternative to implementing this rule is for the Commission to rely on guidance in carrying out the new statutory process instead of promulgating those processes by rule, as required.

16. Long Range Implications of Implementing the Rule

The proposed rule does not impose any financial or compliance burdens that will have an effect on small businesses or a significant economic impact. Judicial officers and candidates may make use of this option, and local clerks will need to properly administer forms submitted by such individuals. Once the new procedures are in place, long term compliance should not present any significant burdens on local governments.

17. Compare With Approaches Being Used by Federal Government

Wis. Stat. § 8.10(8) was created by 2023 WI Act 235, which is closely related to recent federal legislation protecting the information of federal judicial officers. The federal law is the Daniel Anderl Judicial Security and Privacy Act of 2021, which passed as a part of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, 117 P.L. 263; 2022 Enacted H.R. 7776; 117 Enacted H.R. 7776; 136 Stat. 2395. It is Section 5931-39 of the legislation. The federal law aimed to prohibit the public posting of certain personal identifying information of federal judges or their immediate family members, and includes any home address of the officer. This rule relates more narrowly to residence information on declarations of candidacy and nomination papers, but is otherwise in keeping with the federal law. However, it should be noted that the state law does not apply to federal judicial officers, and only applies to Wisconsin judicial officers under the state system. The Commission has requested that the legislature amend the legislation to include federal officers.

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois enacted their own Judicial Privacy Act effective September 22, 2012. The Judicial Privacy Act covers Federal as well as State judges and their immediate families. Any judge in the district or circuit, appellate, or the highest court in the state is covered by the act. Bankruptcy judges are also included in the act. The act includes any blood relative of the judge or their spouses who live in the same residence as the judge. 705 ILCS § 90/1-10. The act protects information about a home address, home phone number, cellphone number, pager number, personal email address, social security number, federal tax identification number, checking and savings account numbers, credit card numbers, marital status, and the identity of a child under the age of 18. 705 ILCS § 90/1-10 Like the federal act, the Illinois act prohibits a government agency from posting this information or displaying it publicly. 705 ILCS § 90/2-1(a). If such protected information is displayed a covered individual may make a written request that the information be removed.

Iowa also has a law like the federal Judicial Security and Privacy Act. The legislature, in a 2017 amendment, added

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

judges into their address confidentiality program that functions to protect the identity of individuals who seek to avoid domestic abuse and their abusers. Under § 9E.2(2), active or retired state and local judges, federal judges, and the spouse or children of the judge may participate in the program. A state judge includes a supreme court justice, an appellate judge, a district court judge, magistrate judge, associate juvenile judge, associate probate judge, or a magistrate. If an individual is only temporarily serving in that role they are also included in the program. An individual must apply for the protection program. They must include identifying information like their name and address as well as why they fear for their safety or the safety of another person in their household. Iowa Code § 9E.3(1). If any of the identifying information changes the applicant must also inform the secretary of state of those changes. The act provides that program participants' name, address, and phone number are confidential information and may not be disclosed unless ordered by a court or pursuant to state or federal law. Iowa Code § 9E.7.

Minnesota has an equivalent to the Judicial Security and Privacy Act, which took effect on August 1, 2024. The act protects current, senior, and retired judges, as well as judicial referees and magistrate judges, of the state courts of Minnesota. The act also protects current and retired employees of the Minnesota judicial branch, and current employees of the Office of Administrative Hearsings, Workers' Compensation Court of Appeals, and the Tax Court. Minn. Code § 480.40(1)(b). The act protects against release the residential address of the judge, their spouse, domestic partner, or child, a personal phone number or email address, the names of their children, the name of any child care facility or school the judges children attend, however, the information can still be accessed through a federal, state, or local record request. A judicial official may also waive protection by disclosing that information themselves or to another person if they do not restrict that other person from further disclosure. Minn. Code § 480.40(1)(c), (d). The act prohibits people, businesses, associations, or government entities from knowingly posting, displaying, publishing, selling, or making available protected information. Minn. Code § 480.40(2).

It does not appear that Michigan has enacted legislation or rules on the topic of judicial officer privacy.

19. Contact Name Brandon Hunzicker, Staff Attorney	20. Contact Phone Number 608-267-0714
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This document can be made available in alternate formats to individuals with disabilities upon request.

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

N/A

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

N/A

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

N/A

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

N/A

5. Describe the Rule's Enforcement Provisions

This rule may be enforced pursuant to an administrative complaint brought under ss. 5.06 or 5.05. This rule may be enforced through an action or proceeding to test the validity of any decision, action or failure to act on the part of any election official with respect to any matter specified in s. 5.06(1) provided that the conditions in ss. 5.06(2) and (3) are also satisfied.

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
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DRAFT ORDER OF THE WISCONSIN ELECTIONS COMMISSION CREATING RULES

The Wisconsin Elections Commission adopts the following permanent rule to create EL 19, relating to confidentiality of judicial officer information on certain election materials.

The statement of scope for this rule, SS 096-24, was approved by the Office of Wisconsin Governor Tony Evers on August 1, 2024, published in Register No. 824B, on August 26, 2024, and approved by the Wisconsin Elections Commission on September 11, 2024.

RULE ANALYSIS

1. Statutes Interpreted:

Section 8.10(8), Stats.

2. Statutory Authority:

Sections 5.05(1)(f), 8.10(8)(a), and 227.11(2)(a), Stats.

3. Explanation of Agency Authority:

Section 5.05(1)(f), Stats., allows the Commission to “Promulgate rules under ch. 227 applicable to all jurisdictions for the purpose of interpreting or implementing the laws regulating the conduct of elections or election campaigns, other than laws regulating campaign financing, or ensuring their proper administration.”

Section 8.10(8)(a) explains the ability of judicial officers and candidates to withhold residency information on nomination papers and declarations of candidacy and requires the Commission to “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.”

Section 227.11(2)(a), Stats., authorizes an agency to promulgate rules interpreting the statutes administered by the agency.

4. Related Statutes:

Sections 8.10(2)&(4), 8.21(4)(b), 19.36(15), and 757.07 Stats. Section 8.10(8), Stats., modifies the process of completing nomination papers and declaration of candidacy documents by judicial officers and judicial candidates under Sections 8.10(2)&(4) and 8.21(4)(b). Section 19.36(15), Stats., clarifies that when a judicial officer or judicial candidate submits a certification of residence with the Commission, that document is not subject to public records requests. Section 757.07, Stats., contains the other privacy provisions for judicial officers created by 2023 WI Act 235.

5. Plain Language Analysis:

The proposed administrative rule carries out the legislative directive in Wis. Stat. § 8.10(8) for the Wisconsin Elections Commission to promulgate rules to allow judicial candidates and judicial officers to withhold their residential address information on nomination papers and declarations of candidacy. The rule prescribes what must be included on the certificate of residence that must be submitted to the Commission and how the Commission will process a form once received. The rule details the specific instances in which a judicial candidate and judicial officer may withhold residential information and instead add "Residence Certified with WEC" in the spaces on the forms asking for residence information. The rule also details how the Commission will communicate this information to the municipal or county clerks who may be processing nomination papers and declarations of candidacy signed by such officers and candidates. The rule also details that a new form must be submitted when any information on the form changes, such as running for election to a new office or for reelection, or if an address changes.

Section EL 19.01 defines terms relevant to the process for judicial officers and judicial candidates to submit certification of residence forms.

Section EL 19.02 details the information that must be included in order for a certification of residency form to be sufficient.

Section EL 19.03 provides what a may be submitted as a proof of residency document, and how the document may be submitted.

Section EL 19.04 provides how the Commission will verify the address provided and how the Commission.

Section EL 19.05 provides how the Commission will maintain the information provided on certificates of residency.

Section EL 19.06 provides the procedures that must be followed by judicial officers and candidates, and by the Commission, county clerks, and municipal clerks following the proper filing of a certificate of residency with the Commission.

6. Summary of, and Comparison With, Existing or Proposed Federal Regulations:

Wis. Stat. § 8.10(8) was created by 2023 WI Act 235, which is closely related to recent federal legislation protecting the information of federal judicial officers. The federal law is the Daniel Anderl Judicial Security and Privacy Act of 2021, which passed as a part of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, 117 P.L. 263; 2022 Enacted H.R. 7776; 117 Enacted H.R. 7776; 136 Stat. 2395. It is Section 5931-39 of the legislation. The federal law aimed to prohibit the public posting of certain personal identifying information of federal judges or their immediate family members and includes any home address of the officer. This rule relates more narrowly to residence information on declarations of candidacy and nomination papers but is otherwise in keeping with the federal law. However, it should be noted that the state law does not apply to federal judicial officers and only applies to Wisconsin judicial officers under the state system. The Commission has requested that the legislature amend the legislation to include federal officers.

7. Summary of Comments Received During Preliminary Comment Period and at Public Hearing on Statement of Scope

The Commission did not receive a directive from the Joint Committee for the Review of Administrative Rules to hold a preliminary public hearing and did not hold a preliminary hearing, and it has not yet held the public hearing for the rule.

8. Comparison with Similar Rules in Illinois, Iowa, Michigan, and Minnesota

Illinois enacted their own Judicial Privacy Act effective September 22, 2012. The Judicial Privacy Act covers Federal as well as State judges and their immediate families. Any judge in the district or circuit, appellate, or the highest court in the state is covered by the act. Bankruptcy judges are also included in the act. The act includes any blood relative of the judge or their spouses who live in the same residence as the judge. 705 ILCS § 90/1-10. The act protects information about a home address, home phone number, cellphone number, pager number, personal email address, social security number, federal tax identification number, checking and savings account numbers, credit card numbers, marital status, and the identity of a child under the age of 18. 705 ILCS § 90/1-10 Like the federal act, the Illinois act prohibits a government agency from posting this information or displaying it publicly. 705 ILCS § 90/2-1(a). If such protected information is displayed a covered individual may make a written request that the information be removed.

Iowa also has a law like the federal Judicial Security and Privacy Act. The legislature, in a 2017 amendment, added judges into their address confidentiality program that functions to protect the identity of individuals

who seek to avoid domestic abuse and their abusers. Under § 9E.2(2), active or retired state and local judges, federal judges, and the spouse or children of the judge may participate in the program. A state judge includes a supreme court justice, an appellate judge, a district court judge, magistrate judge, associate juvenile judge, associate probate judge, or a magistrate. If an individual is only temporarily serving in that role they are also included in the program. An individual must apply for the protection program. They must include identifying information like their name and address as well as why they fear for their safety or the safety of another person in their household. Iowa Code § 9E.3(1). If any of the identifying information changes the applicant must also inform the secretary of state of those changes. The act provides that program participants' name, address, and phone number are confidential information and may not be disclosed unless ordered by a court or pursuant to state or federal law. Iowa Code § 9E.7.

Minnesota has an equivalent to the Judicial Security and Privacy Act, which took effect on August 1, 2024. The act protects current, senior, and retired judges, as well as judicial referees and magistrate judges, of the state courts of Minnesota. The act also protects current and retired employees of the Minnesota judicial branch, and current employees of the Office of Administrative Hearing, Workers' Compensation Court of Appeals, and the Tax Court. Minn. Code § 480.40(1)(b). The act protects against release the residential address of the judge, their spouse, domestic partner, or child, a personal phone number or email address, the names of their children, the name of any child care facility or school the judges children attend, however, the information can still be accessed through a federal, state, or local record request. A judicial official may also waive protection by disclosing that information themselves or to another person if they do not restrict that other person from further disclosure. Minn. Code § 480.40(1)(c), (d). The act prohibits people, businesses, associations, or government entities from knowingly posting, displaying, publishing, selling, or making available protected information. Minn. Code § 480.40(2).

It does not appear that Michigan has enacted legislation or rules on the topic of judicial officer privacy.

9. Summary of Factual Data and Analytical Methodologies

The Commission met on March 7 and 12, 2025, to discuss the draft rule. The Commission may make changes to the rule in response to feedback on the EIA and after the public hearing. Commission staff examined the current nomination paper and declaration of candidacy procedures and statues during the drafting of the rule.

10. Analysis and Supporting Documents used to Determine Effect on Small Business

There is no anticipated effect on small business. No specific analysis was performed for the fiscal estimate, nor were any supporting documents generated, because there is no anticipated effect on any fiscal liabilities and revenue, and no anticipated costs to be incurred by the private sector.

11. Effect on Small Business (initial regulatory flexibility analysis):

N/A

Agency Contact Person:

Angela O'Brien Sharpe, Staff Attorney
Wisconsin Elections Commission
201 West Washington Avenue
P.O. Box 7984
Madison, WI 53707-7984
Telephone: 608-264-6764
Email: angela.sharpe@wisconsin.gov

RULE TEXT

EL 19 Judicial Privacy Protections

19.01 DEFINITIONS

19.01(a) “Certification of Residence” means a document authorized by s. 8.10(8)(a) and applied for pursuant to this chapter.

19.01(b) “Judicial candidate” means a candidate for filling the office of a judicial officer, as defined in s. 757.07(1)(e).

19.01(c) “Judicial officer” has the meaning given in s. 757.07(1)(e).

19.01(d) “Proof of residence” has the meaning given in s. 6.34(3).

19.01(e) “Residential address” means street name and number, apartment or unit number, municipality, state, and ZIP code that identifies the individual’s residence under s. 6.10. Residential address as used in this chapter may also include a mailing address if the mailing address identifies the same residence.

19.01(f) “WEC” means the Wisconsin Elections Commission

19.02 APPLICATION

19.02(a) In order to file a lawful certification of residence with the commission, a judicial officer or judicial candidate must complete a certification of residence form prescribed by the commission pursuant to this chapter. A request for protection of personal information made pursuant to s. 757.07(4)(b)1. is not sufficient by itself to file a certification of residence pursuant to s. 8.10(8)(a).

19.02(b) A judicial officer or judicial candidate who wishes to be properly exempt from providing their residential address pursuant to s. 8.10(8) must file a certification of residence before circulating or signing nomination papers or submitting a declaration of candidacy.

19.02(c) A judicial officer seeking to maintain a private address under s. 8.10(8)(a), Stats., shall file the certification of residence form currently prescribed by the commission for that purpose. A sufficient form must contain all of the following:

19.02(c)(1) Full legal name of judicial officer or judicial candidate.

19.02(c)(2) Name that will appear on a judicial candidate’s declaration of candidacy and nomination papers.

19.02(c)(3) Judicial officer designation category under s. 757.07(1)(e).

19.02(c)(4) A judicial candidate must indicate the title; jurisdiction; branch, district, or jurisdiction; and date of election for the office sought.

- 19.02(c)(5) The address of the judicial officer or judicial candidate’s residence for voting purposes, as defined by s. 6.10(1) Stats., which must include the street name and number, apartment/unit number, municipality, state, and ZIP code.
- 19.02(c)(6) Mailing address if different from the residential address.
- 19.02(c)(7) Email address.
- 19.02(c)(8) The following certification language: “I hereby certify that I am currently or formerly a judicial officer, or that I intend to be a candidate for filling the office of a judicial officer, as defined by Wis. Stat. § 757.07(1)(e). This form constitutes my written request to the Wisconsin Elections Commission to confidentially maintain my address unless I consent to disclosure under Wis. Stat. § 757.07(4)(e).

I certify that the residential address that I provided is the place where my habitation is fixed, without any present intent to move, and to which, when absent, I intend to return. I certify that the accompanying proof of residence submitted with this application accurately reflects my current legal name and residential address.

I certify that the information I provided in this application is true and correct. I understand that falsifying any portion of this application could result in prosecution and penalties, including, but not limited to, Wis. Stat. §§ 12.13(1)(b) and 12.13(3)(a).

I understand that I will need to submit a new request for certification of residence if there is any material change in the information presented on this application, including a change in address or election date.

I understand on what date I am required to be a resident of the jurisdiction for the office sought and that I may be required to move to qualify for the office.

I understand that if I am a judicial officer, I may place “Residence Certified with WEC” on my own nomination papers and Declaration of Candidacy for the office of a judicial officer in lieu of providing my residential address and, as a signatory or circulator, on the nomination papers of other nonpartisan candidates.

I understand that if I am only a candidate for filling the office of a judicial officer, I may place “Residence Certified with WEC” on my own nomination papers and Declaration of Candidacy for that office in lieu of providing my residential address.

I understand that a filing officer may contact me in writing to confirm that my residential address is still accurate or to request an updated form, and that I must confirm the accuracy of my residence or provide an updated form if requested.

I understand that the Wisconsin Elections Commission will maintain the confidentiality of my certification of residence and share it only with my filing officer unless compelled to release the information by a court or other lawful authority, or unless I consent to its release.”

- 19.02(c)(9) A notarization or an unsworn declaration.

19.03 VERIFICATION OF ADDRESS

19.03(a) At the time of filing, a judicial officer or judicial candidate shall submit proof of residence, as defined by s. 6.34(3), so that the commission can verify the judicial officer or judicial candidate's residential address. The proof of residence document may be submitted electronically.

19.03(b) The proof of residence submitted under sec. (a) is considered part of the certification of residence under this chapter and shall be kept confidential by the commission

19.04 CERTIFICATION OF RESIDENCE, PROCEDURE

19.04(a) Upon receipt of a certification of residence form under sec. 19.02, the commission shall first examine it for sufficiency. If the application is insufficient or does not include acceptable proof of residence under sec. 19.03, the commission should contact the judicial officer within three (3) business days to notify them of the deficiency and provide instructions for how it can be corrected.

19.04(b) If the application is sufficient, the commission shall then examine the provided proof of residence document to ensure that it meets the requirements of s. 6.34(3)(a). If it does, the commission shall conclude that the judicial officer or judicial candidate's residential address is verified.

19.04(c) Nothing in this section exempts a judicial candidate from a ballot access challenge, or guarantees placement on the ballot.

19.04(d) If both the certification of residence form and proof of residence are sufficient, the commission shall issue an acknowledgement of the filing of the certification of residence.

19.04(e) The acknowledgement of the certification of residence shall be issued on commission letterhead and shall state substantially the following: "The Wisconsin Elections Commission has verified the residential address of (Name of Judicial Officer or judicial candidate) pursuant to Wis. Stat. § 8.10(8) and EL Chapter 19. (Name of Judicial Officer or judicial candidate) is exempt from providing his or her residential address on his or her own nomination papers and declarations of candidacy." If the individual is judicial officer, the acknowledgement shall also state that the judicial officer is exempt from providing his or her residential address as a circulator or as signatory on the nomination papers of a nonpartisan candidate.

19.05 MAINTENANCE OF CERTIFICATION OF RESIDENCE, PROCEDURE

19.05(a) The commission shall create and confidentially maintain a database for sufficient certifications of residence.

19.05(b) The commission shall record that the judicial officer or judicial candidate's address was verified, the date of filing, along with the judicial officer or judicial candidate's name.

19.05(c) If the certification of residence is received by the commission, the commission shall notify the judicial officer within three (3) business days of the determination of sufficiency.

19.06 PROCEDURE FOR NOMINATION PAPERS AND DECLARATIONS OF CANDIDACY

- 19.06(a) A judicial officer who properly files a certification of residence and has been issued an acknowledgement by the commission may, in lieu of providing their residential address on nomination papers or a declaration of candidacy, include the words “Residence Certified with WEC.” If “Residence Certified with WEC” has been included at least once on an appropriate form for an individual with a certificate on file, subsequent spaces requiring residence information may use an abbreviated version.
- 19.06(a)(1) If a judicial officer or judicial candidate does not include the words in sec. 19.06(a), that omission shall not invalidate the nomination paper, signature, line, circulator statement, or declaration of candidacy if the commission or filing officer can determine that the judicial officer or judicial candidate properly filed a certification of residence.
- 19.06(a)(2) If the space for a mailing address on a nomination paper is left blank for a judicial candidate that has filed a certificate of residence with the commission, the filing officer shall conclude that the mailing address is the same as the residential address for voting purposes that has been certified. If the mailing address is different than the residential address for voting purposes but still identifies the same residence, the candidate may leave the space blank or write “Residence Certified with WEC” in that space. Candidates may include a mailing address that is separate from the residence, and, if included, that information shall not be confidential.
- 19.06(b) If a judicial candidate indicates on the application that he or she intends to run as a candidate for an office for which the commission is not the filing officer, the commission shall provide the appropriate filing officer with the information provided on the certification of residence, as well as the county clerks covering the applicable district(s).
- 19.06(c) Filing officers may also contact the commission directly to determine whether a certification of residence has been filed.
- 19.06(d) A Judicial officer or a judicial candidate to fill the office of a judicial officer may only place “Residence Certified with WEC” on a nomination paper or declaration of candidacy if the information on file is accurate. If the information is inaccurate, including residence address, office sought, or election date, the judicial officer or judicial candidate must resubmit the form with updated information to qualify for the provisions of this chapter.
- 19.06 (e) If in receipt of nomination papers or a declaration of candidacy containing “Residence Certified with WEC,” and the filing officer has reason to believe that the address certified is no longer the correct address, a filing officer may request that a candidate confirm in writing that the address that was certified by the Commission is still the residential address or that a an updated certification be filed.