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BRIEFS

from THE NATIONAL CENTER FOR STATE COURTS



States move to protect judges' safety

Over the past three years, state legislatures have introduced a large influx of bills addressing the need to protect judges, court staff, and their families. In 2024 alone, more than 60 pieces of legislation were introduced and discussed across 21 states, with 10 becoming law as of April 2024. While the specifics surrounding each initiative differ, five elements appear in most of these bills — all focused on protecting the release and use of personally identifiable information of judges and court staff.

2021 limited its provisions to specifically named active, formerly active, or retired state judicial officers and their families as specified elsewhere in the statute.¹ Others, such as Missouri's Judicial Privacy Act,² cover federal judges and their families as well as prosecutors. Several states have also sought to provide protections to court and clerk staff. Florida, which already had an existing statute covering judges in the state,³ expanded those protections to court staff⁴ and staff of the independently elected clerk of the court.⁵

1. Who is covered? Some legislative efforts are specifically limited to state court judges, while others are broader in coverage. For example, Delaware's H.B. 230 of

2. What state/local agencies are covered? For laws preventing government entities from releasing information regarding covered persons, the level of specificity varies ▶

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widely. In 2022, Nebraska acted to include judges in an existing law that withholds from the public information held by the county assessor and register of deeds.⁶ By contrast, Idaho's 2023 law more broadly covers every "public agency," effectively including all Idaho state and local agencies.⁷

3. What information may not be shared by the state/local agency?

State laws differ in defining personally identifiable information and/or generally the records and information subject to restrictions. Some laws broadly prohibit the release of any documentation or records about the covered judicial officer, staffer, or their families. Others designate specific data elements, of which home or residential addresses are by far the most common. Additional data elements may, or may not, be covered by such laws.

4. Who notifies the public office/official possessing the public record that they may no longer release the personal information?

Typically, the judge or protected person must notify the government agency that they are covered and therefore the protected information may no longer be released. Several states have laws allowing some other government official to do this on the judge's behalf. For example, Missouri's new Judicial Privacy Act⁸ offers three options. First, the judge may send a written request directly to the government agency, person, business, or association. Second, the judge can file a written request with the clerk of the Missouri Supreme Court or the clerk's designee to notify government agencies. Third, Missouri's judiciary has created a website that

The level of specificity varies widely. In 2022, Nebraska acted to include judges in an existing law that withholds from the public information held by the county assessor and register of deeds. By contrast, Idaho's 2023 law more broadly covers every "public agency," effectively including all Idaho state and local agencies.

allows state and federal judges the ability to make such a request.⁹

5. Does the law also prohibit posting/publication by third parties?

Several of these laws prohibit the publication or distribution of information regarding judges by third parties.

Some legislation provides for civil remedies for public disclosure of personally identifiable information. For example, the Oklahoma Judicial Security and Privacy Act of 2023¹⁰ provides that "no person, business, or association shall publicly post or publicly display on the Internet covered information of an at-risk individual or immediate family if the at-risk individual has made a written request to that person, business, or association to not disclose the covered information of the at-risk individual or immediate family." Judges and others may submit

a written request to the third party to have the information removed within 72 hours. The law also allows the judge or their immediate family to seek injunctive or declaratory relief to remedy violations, including a fine of \$4,000 and an award of court costs and reasonable attorney fees.

In addition, Maryland's Judge Andrew F. Wilkinson Judicial Security Act provides an example of possible criminal penalties.¹¹ The law is named for a Maryland circuit judge killed at his home in 2023 by a party in a divorce case over which he had presided.¹² Signed on May 9, 2024, the law provides in operative part that an individual may not knowingly publish the personal information of a protected individual if the person knows or reasonably should know that publishing the personal information poses an imminent and serious threat to the protected individual, and the publishing of the personal information results in an assault in any degree, harassment, trespass, or malicious destruction of property. An individual who violates this section is guilty of a misdemeanor and, on conviction, is subject to imprisonment not exceeding 18 months or a fine not exceeding \$5,000, or both.

Running parallel to these efforts to protect personally identifiable information have been efforts to safeguard judges and court staff in other ways:

- Maryland's Wilkinson Judicial Security Act¹³ also includes a provision for the creation of a Task Force to Ensure the Safety of Judicial Facilities. The Task Force must identify minimum requirements for courthouse security in the state and report their

findings and suggested legislative changes by January 1, 2025.

- Tennessee H.B. 1658 / S.B. 2221¹⁴ creates the Class E felony offense of assault against a participant in judicial proceedings, which occurs when a person, while on the premises of a building in which judicial proceedings occur, knowingly assaults a victim that the person knows or reasonably should know is present due to the “victim’s participation in judicial proceedings.” “Participation” includes a victim’s employment as a judge or court employee.
- Virginia H.B. 679 / S.B. 386¹⁵ provides that localities must provide minimum standards for the security of magistrates in the state. This includes an entrance, exit, and parking for magistrates that are separate from those for members of the public; physical security of the magis-

trate, including controlled access to interior spaces or intrusion detection; a secure physical barrier between the magistrate and members of the public; and a readily accessible duress button that connects the magistrate to local law enforcement.

- Washington H.B. 2056¹⁶ authorizes bailiffs of the Washington Supreme Court to conduct threat assessments on behalf of supreme court justices and to receive criminal history record information that includes non-conviction data for purposes exclusively related to investigating any person making a threat against a justice.
- Wisconsin S.B. 926¹⁷ provides that picketing or parading at the residence of a judge with the intent to interfere with, obstruct, or impede the administration of justice or influence any judge results in a penalty.

- Wyoming S.F. 30¹⁸ expands the existing crime of influencing, intimidating, or impeding jurors or witnesses to include judges or other judicial officers.

For more information on judicial security or to track other legislation affecting the courts, visit www.ncsc.org/gaveltogavel. While there, sign up for the weekly newsletter published during state legislative sessions.

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¹ H.B. 230, 151st Gen. Assem. (Del. 2021) (enacted 2021) (codified at DEL. STAT. ANN. TIT. 10 §§ 1921–24 (2023)) (“Judicial officer” includes any active, formerly active, or retired: Chief Justice or Justice of the Supreme Court; Chancellor, Vice Chancellor, or Master of the Court of Chancery; President Judge, Judge, or Commissioner of the Superior Court; Chief Judge, Judge, or Commissioner of the Court of Common Pleas; Chief Judge, Judge, or Commissioner of the Family Court; Chief Magistrate or Justice of the Peace of the Justice of the Peace Court.” (cleaned up)). For the definition of “family” used, see DEL. STAT. ANN. TIT. 10 § 901(12) (2022).

² See MO. REV. STAT. § 476.1300(4) (2023) (defining “Judicial officer” as “actively employed, formerly employed, or retired: (a) Justices of the Supreme Court of the United States; (b) Judges of the United States Court of Appeals; (c) Judges and magistrate judges of the United States District Courts; (d) Judges of the United States Bankruptcy Court; (e) Judges of the Missouri [S]upreme [C]ourt; (f) Judges of the Missouri [C]ourt of [A]ppeals; (g) Judges and commissioners of the Missouri circuit courts, including of the divisions of a circuit court; and (h) Prosecuting or circuit attorney, or assistant prosecuting or circuit attorney”).

³ FLA. STAT. § 119.071 (2024).

⁴ S.B. 50, 125th Leg., Reg. Sess. (Fla. 2023) (enacted 2023) (codified at FLA. STAT. § 119.071 (2024)) (“‘Judicial assistant’ means a court employee assigned

to the following class codes: 8140, 8150, 8310, and 8320.”).

⁵ H.B. 983, 126th Leg., Reg. Sess. (Fla. 2024) (exempting “current clerks of the circuit court, deputy clerks of the circuit court, and clerk of the circuit court personnel”).

⁶ L.B. 1178, 107th Leg., 2d Sess. (Neb. 2022) (enacted 2022) (codified at NEB. REV. STAT. § 23-3211 (2022))

⁷ S.B. 1059, 67th Leg., 1st Reg. Sess. (Idaho 2023) (enacted 2023) (codified at IDAHO CODE ANN. §§ 19-6001–04 (2023)). The 2023 law adopted “public agency” as defined in section 74-101, Idaho Code. Section 74-101 defines “public agency” as “any state or local agency as defined in this section.” IDAHO CODE ANN. § 74-101(1) (2023). “State agency” means every state officer, department, division, bureau, commission, and board or any committee of a state agency, including those in the legislative or judicial branch, except the state militia and the Idaho state historical society library and archives.” *Id.* § 74-101(15). “Local agency” means a “county, city, school district, municipal corporation, independent public body corporate and politic, district, public health district, political subdivision, or any agency thereof, or any committee of a local agency, or any combination thereof.” *Id.* § 74-101(8).

⁸ S.B. 103, 102d Gen. Assem., 1st Reg. Sess. (Mo. 2023) (enacted 2023) (codified at MO. REV. STAT. §§ 476.1300–13 (2023)).

⁹ See *Privacy Requests for Judicial Officers*, Mo. Cts.

(last visited May 26, 2024), <https://www.courts.mo.gov/page.jsp?id=246>.

¹⁰ H.B. 2794, 59th Leg., 1st Reg. Sess. (Okla. 2023) (enacted 2023) (codified at OKLA. STAT. §§ 3011–19 (2023)).

¹¹ S.B. 575, 446th Gen. Assem., Reg. Sess. (Md. 2024) (enacted 2024) (codified at MD. CODE ANN., CTS. & JUD. PROC. § 3-2301 (2024)).

¹² Marlene Lenthang, Erik Ortiz & Victoria Ebner, *Maryland Judge Killed in His Driveway Presided Over Suspect’s Divorce Case*, NBC NEWS (Oct. 20, 2023), <https://perma.cc/DDL3-3X4U>.

¹³ S.B. 575, 446th Gen. Assem., Reg. Sess. (Md. 2024) (enacted 2024) (codified at MD. CODE ANN., CTS. & JUD. PROC. § 3-2301 (2024)).

¹⁴ H.B. 1658, 113th Gen. Assem., 2d Reg. Sess. (Tenn. 2024)

¹⁵ H.B. 679, 2024 Gen. Assem., Reg. Sess. (Va. 2024) (enacted 2024).

¹⁶ H.R. 2056, 68th Leg., Reg. Sess. (Wash. 2024) (enacted 2024).

¹⁷ S. B. 926, 106th Leg., Reg. Sess. (Wis. 2023).

¹⁸ S.F. 30, 67th Leg., Budget Sess. (Wyo. 2024).