

## ADMINISTRATIVE RULES

### Fiscal Estimate & Economic Impact Analysis

<b>1. Type of Estimate and Analysis</b> <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	<b>2. Date</b> 3/17/2025
<b>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable)</b> Chapter EL 19, Confidentiality of Judicial Officer Information on Certain Election Materials	
<b>4. Subject</b> 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.	
<b>5. Fund Sources Affected</b> <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	<b>6. Chapter 20, Stats. Appropriations Affected</b> Wis. Stat. s. 20.510
<b>7. Fiscal Effect of Implementing the Rule</b> <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	
<b>8. The Rule Will Impact the Following (Check All That Apply)</b> <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)	
<b>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1).</b> \$0.00	
<b>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)?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<b>11. Policy Problem Addressed by the Rule</b> 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.	
<b>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.</b> 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.	

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

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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.

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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.

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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.

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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 Aderl 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.

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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.

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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 Hearings, 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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## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

### ATTACHMENT A

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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

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

N/A

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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

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

N/A

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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.

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

Yes     No

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