

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

H.B. 399
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH30164-ND-3

Short Title: The North Carolina Judicial Privacy Act. (Public)

Sponsors: Representative Alexander.

Referred to:

A BILL TO BE ENTITLED
AN ACT TO CREATE THE NORTH CAROLINA JUDICIAL PRIVACY ACT.
The General Assembly of North Carolina enacts:
SECTION 1. Subchapter VII of Chapter 7A of the General Statutes is amended by
adding a new Article to read:

"Article 31C.
"Judicial Privacy Act.

"§ 7A-410.5A. Title.

This Article shall be known and may be cited as the "North Carolina Judicial Privacy Act."

"§ 7A-410.5B. Purpose.

The purpose of this Article is to improve the safety and security of North Carolina judicial officials to ensure those officials are able to administer justice fairly without fear of personal reprisal from individuals affected by the decisions those officials make in the course of carrying out the public function of each judicial official's duties.

This Article is not intended to restrain a judicial official from independently making public the official's own personal information. Additionally, no government agency, person, business, or association has any obligation under this Article to protect the privacy of a judicial official's personal information until the judicial official makes a written request pursuant to this Article that the official's personal information not be publicly posted.

Nothing in this Article shall be construed to impair free access to decisions and opinions expressed by judicial officials in the course of carrying out each judicial official's public functions.

"§ 7A-410.5C. Definitions.

The following definitions apply in this Article:

- (1) Government agency. – All agencies, authorities, boards, commissions, departments, institutions, offices, and any other bodies politic and corporate of the State created by the Constitution or statute, whether in the executive, judicial, or legislative branch; all units and corporate outgrowths created by executive order of the Governor or any constitutional officer, by the Supreme Court, or by resolution of the General Assembly; or agencies, authorities, boards, commissions, departments, institutions, offices, and any other bodies politic and corporate of a unit of local government or school district.
- (2) Home address. – A judicial official's permanent residence and any secondary residences affirmatively identified by the judicial official, not including a judicial official's work address.



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- (3) Immediate family. – A judicial official's spouse, child, parent, or any blood relative of the judicial official or the judicial official's spouse who lives in the same residence as the judicial official.
- (4) Judicial official. – Actively employed, former, or deceased (i) justices of the United States Supreme Court and North Carolina Supreme Court, (ii) judges of the United States Court of Appeals and North Carolina Court of Appeals, (iii) judges and magistrate judges of the United States District Court, (iv) judges of the United States Bankruptcy Court, and (v) judges presiding over North Carolina superior courts and district courts.
- (5) Personal information. – A home address, home telephone number, mobile telephone number, pager number, personal email address, social security number, federal tax identification number, checking and savings account numbers, credit card numbers, marital status, and identity of children under the age of 18.
- (6) Publicly available content. – 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 request under the federal Freedom of Information Act.
- (7) Publicly post or publicly display. – To publicly communicate to another or otherwise make available to the general public.
- (8) Written request. – Written notice signed by a judicial official or a representative of the judicial official's employer requesting a government agency, person, business, or association refrain from posting or displaying publicly available content that includes the judicial official's personal information.

"§ 7A-410.5D. Publicly posting or displaying a judicial official's personal information by government agencies.

(a) Government agencies shall not publicly post or display publicly available content that includes a judicial official's personal information, provided that the government agency has received a written request in accordance with G.S. 7A-410.5F that it refrain from disclosing the judicial official's personal information. After a government agency has received a written request, that agency shall remove the judicial official's personal information from publicly available content within five business days. After the government agency has removed the judicial official's personal information from publicly available content, the agency shall not publicly post or display publicly the information and the judicial official's personal information shall be exempt from public records requests made pursuant to Chapter 132 of the General Statutes unless the government agency has received consent from the judicial official to make the personal information available to the public.

(b) If a government agency fails to comply with a written request to refrain from disclosing personal information made pursuant to this Article, the judicial official may bring an action seeking injunctive or declaratory relief in any court of competent jurisdiction.

"§ 7A-410.5E. Publicly posting or displaying a judicial official's personal information on the internet by persons, businesses, and associations.

(a) Prohibited Conduct. –

- (1) All persons, businesses, and associations shall refrain from publicly posting or displaying on the internet publicly available content that includes a judicial official's personal information, provided that the judicial official has made a written request to the person, business, or association that it refrain from disclosing the personal information.

(2) No person, business, or association shall solicit, sell, or trade on the internet a judicial official's personal information with the intent to pose an imminent and serious threat to the health and safety of the judicial official or the judicial official's immediate family.

This subsection includes, but is not limited to, internet phone directories, internet search engines, internet data aggregators, and internet service providers.

(b) Required Conduct. –

(1) After a person, business, or association has received a written request from a judicial official to protect the privacy of the official's personal information, that person, business, or association shall have 72 hours to remove the personal information from the internet.

(2) After a person, business, or association has received a written request from a judicial official, that person, business, or association shall ensure that the judicial official's personal information is not made available on any website or subsidiary website controlled by that person, business, or association.

(3) After receiving a judicial official's written request, no person, business, or association shall transfer the judicial official's personal information to any other person, business, or association through any medium.

(c) Redress. – A judicial official whose information is made public as a result of a violation of this Article may bring an action seeking injunctive or declaratory relief in any court of competent jurisdiction. If the court grants injunctive or declaratory relief, the person, business, or association responsible for the violation shall be required to pay the judicial official's costs and reasonable attorney's fees incurred due to the action.

"§ 7A-410.5F. Procedure for completing a written request.

(a) Requirement That a Judicial Official Make a Written Request. – No government agency, person, business, or association shall be found to have violated any provision of this Article if the judicial official fails to submit a written request calling for the protection of the official's personal information.

(b) Written Request Procedure. – A written request shall be valid if either of the following occurs:

(1) The judicial official sends a written request directly to a governmental agency, person, business, or association.

(2) If the Administrative Office of the Courts has a policy and procedure for a State judicial official to file the written request with the Administrative Office of the Courts to notify government agencies, the State judicial official may send the written request to the Administrative Office of the Courts. In each quarter of a calendar year, the Administrative Office of the Courts shall provide a list of all State judicial officials that have submitted a written request to the appropriate officer with ultimate supervisory authority for a government agency. The officer shall promptly provide a copy of the list to any and all government agencies under the officer's supervision. Receipt of the written request list compiled by the Administrative Office of the Courts by a government agency shall constitute a written request to that government agency for the purposes of this Article.

(c) A representative from the judicial official's employer may submit a written request on the judicial official's behalf, provided that the judicial official gives written consent to the representative and provided that the representative agrees to furnish a copy of that consent when a written request is made. The representative shall submit the written request as provided in subsection (b) of this section.

1 (d) Information to be Included in the Written Request. – A judicial official's written
2 request shall specify what personal information shall be maintained private pursuant to this
3 Article.

4 If a judicial official wishes to identify a secondary residence as a home address as that term
5 is defined in this Article, the designation shall be made in the written request.

6 A judicial official shall disclose the identity of the official's immediate family members and
7 indicate that the personal information of the official's immediate family members shall also be
8 excluded to the extent that it could reasonably be expected to reveal the personal information of
9 the judicial official.

10 (e) Duration of the Written Request. – A judicial official's written request is valid until
11 the judicial official provides the government agency, person, business, or association with written
12 permission to release the private information. A judicial official's written request expires on the
13 death of the judicial official.

14 **"§ 7A-410.5G. Unlawful publication of personal information.**

15 It is unlawful for any person to knowingly publicly post on the internet the personal
16 information of a judicial official or member of the judicial official's immediate family if (i) the
17 person knows or reasonably should know that publicly posting the personal information poses an
18 imminent and serious threat to the health and safety of the judicial official or member of the
19 judicial official's immediate family and (ii) the violation of this Article is a proximate cause of
20 bodily injury or death of the judicial official or a member of the judicial official's immediate
21 family.

22 A person that violates this section is guilty of a Class C felony.

23 **"§ 7A-410.5H. Exceptions for employees of government agencies.**

24 Provided that an employee of a government agency has complied with the conditions set forth
25 in this Article, it is not a violation of G.S. 7A-410.5G if an employee of a government agency
26 publishes, in good faith, personal information prohibited from being published under this Article
27 on the website of the government agency in the ordinary course of carrying out public functions.

28 **"§ 7A-410.5I. Construction of Article.**

29 This Article and any rules adopted to implement this Article shall be construed broadly to
30 favor the protection of the personal information of judicial officials and members of the judicial
31 official's immediate family."

32 **SECTION 2.** If any part of this act or its application to any person or circumstance
33 is adjudged invalid, such adjudication or application shall not affect the validity of this act as a
34 whole or of any other part.

35 **SECTION 3.** This act becomes effective December 1, 2023, and applies to personal
36 information that is made public or continues to remain public on or after that date.