

HB492 INTRODUCED



1 N5CHJ8-1
2 By Representative Hill
3 RFD: Judiciary
4 First Read: 18-May-23
5 2023 Regular Session



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SYNOPSIS:

This bill creates the Judicial Privacy Act.

This bill would prohibit government agencies, individuals, businesses, and associations from publicly posting or displaying judge's or justice's personally identifiable information on the Internet, provided they have received a written request from the judge or justice to refrain from doing so.

This bill would prohibit commercial data collectors from knowingly selling, trading, licensing, transferring, or purchasing judges' personally identifiable information.

This bill would provide for a process for judges and justices to request their personal information not be made public.

This bill would also provide for penalties for violations.

Section 111.05 of the Constitution of Alabama of 2022, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or



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29 provides a local source of revenue, to the entity for
30 the purpose.

31 The purpose or effect of this bill would be to
32 require a new or increased expenditure of local funds
33 within the meaning of the amendment. However, the bill
34 does not require approval of a local governmental
35 entity or enactment by a 2/3 vote to become effective
36 because it comes within one of the specified exceptions
37 contained in the amendment.

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40 A BILL

41 TO BE ENTITLED

42 AN ACT

43

44 Relating to judges and justices; to prohibit government
45 agencies, individuals, businesses, and associations from
46 publicly posting or displaying judge's or justice's personally
47 identifiable information on the Internet, provided they have
48 received a written request from the judge or justice to
49 refrain from doing so; to prohibit commercial data collectors
50 from knowingly selling, trading, licensing, transferring, or
51 purchasing judges' personally identifiable information; to
52 provide for a process for a judge or justice to request their
53 personal information not be made public; to provide for
54 penalties for violations; and in connection therewith would
55 have as its purpose or effect the requirement of a new or
56 increased expenditure of local funds within the meaning of



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57 Section 111.05 of the Constitution of Alabama of 2022.

58 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

59 Section 1. This act shall be known as and may be cited
60 as the Judicial Privacy Act.

61 Section 2. As used in this section, the following terms
62 have the following meanings:

63 (1) DATA BROKER.

64 a. A commercial entity engaged in collecting,
65 assembling, or maintaining personal information concerning an
66 individual who is not a customer, client, or an employee of
67 that entity in order to sell the information or otherwise
68 profit from providing third-party access to the information.

69 b. The term does not include a commercial entity
70 engaged in any of the following activities:

71 1. Reporting, news-gathering, speaking, or other
72 activities intended to inform the public on matters of public
73 interest or concern.

74 2. Providing 411 directory assistance or directory
75 information services, including name, address, and telephone
76 number, on behalf of or as a function of a telecommunications
77 carrier.

78 3. Providing publicly available content via real-time
79 or near-real-time alert services for health or safety
80 purposes.

81 (2) GOVERNMENT AGENCY. An executive, legislative, or
82 judicial agency, department, board, commission, authority,
83 institution, or instrumentality of the federal government or
84 of a state or of a county, municipality, or other political



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85 subdivision of a state.

86 (3) IMMEDIATE FAMILY. A judicial officer's spouse,
87 child, parent, or any other relative of the judicial officer
88 or the judicial officer's spouse who lives in the same
89 residence.

90 (4) JUDICIAL OFFICER. Any individual who is currently
91 serving as, or has previously served as, any of the following:

92 a. Justice the Alabama Supreme Court.

93 b. Judge of the Alabama Court of Criminal Appeals.

94 c. Judge of the Alabama Court of Civil Appeals.

95 d. Judge of an Alabama Circuit Court.

96 e. Judge of an Alabama District Court.

97 f. Judge of an Alabama Probate Court.

98 g. Judge of an Alabama Municipal Court.

99 (5) PERSON. Includes an individual, business, or
100 association.

101 (6) PERSONAL INFORMATION. Includes, but is not limited
102 to, all of the following:

103 a. Home address, including primary residence, secondary
104 residences, or an investment property.

105 b. Phone number, including a home number, a personal
106 cell number, a state-issued cell phone number, or a private
107 extension in the chambers of a judicial officer.

108 c. Personal email address.

109 d. Social Security number.

110 e. Date of birth.

111 f. Driver license number.

112 g. Bank account information.



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113 h. Credit or debit card information.

114 i. License plate number.

115 j. Name or address of a school or day care facility
116 attended by the judicial officer's immediate family.

117 k. A photograph of any vehicle that legibly displays
118 the license plate of the judicial officer.

119 l. A photograph of a residence of the judicial officer
120 that legibly displays the address of the residence.

121 m. Name or address of an employer of the judicial
122 officer's immediate family.

123 (7) PUBLICLY AVAILABLE CONTENT. Any written, printed,
124 or electronic document or record that is maintained,
125 controlled, or in possession of a government agency that may
126 be obtained by any individual or entity from the Internet,
127 from the government agency upon request either free of charge
128 or for a fee, or in response to a request under the Freedom of
129 Information Act.

130 (8) PUBLICLY POST OR DISPLAY. To communicate to another
131 or otherwise make available to the public.

132 Section 3. (a) Government agencies shall not publicly
133 post or display publicly available content that includes the
134 personal information of a judicial officer or his or her
135 immediate family, provided that the government agency has
136 received a written request in accordance with Section 6.

137 (b) (1) After a government agency has received a
138 written request, the government agency shall remove the
139 judicial officer's and his or her immediate family's personal
140 information from publicly available content within five



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141 business days of such receipt.

142 (2) After the government agency has removed the
143 judicial officer's and his or her immediate family's personal
144 information from publicly available content, the governmental
145 agency shall not publicly post or display the personal
146 information. Additionally, the judicial officer's and his or
147 her immediate family's personal information shall confidential
148 and not be considered a public record for purposes of Article
149 3 of Chapter 11 of Title 40, Code of Alabama 1975, unless the
150 government agency has received consent from the judicial
151 officer to make the personal information a public record.

152 (c) If a government agency fails to comply with a
153 written request to refrain from disclosing personal
154 information, the judicial officer may bring an action seeking
155 injunctive or declaratory relief in any court of competent
156 jurisdiction.

157 Section 4. (a) A person shall not publicly post or
158 display on the Internet the personal information of a judicial
159 officer or his or her immediate family, provided the judicial
160 officer has made a written request to the individual,
161 business, or association that it refrain from disclosing the
162 judicial officer's or his or her immediate family's personal
163 information in accordance with Section 6.

164 (b) Subsection (a) shall not apply to any of the
165 following:

166 (1) The display on the Internet of personal information
167 of a judicial officer or the immediate family if the
168 information is relevant to and displayed as part of a news



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169 story, commentary, editorial, or other speech on a matter of
170 public concern.

171 (2) Personal information that a judicial officer
172 voluntarily publishes on the Internet.

173 (3) Personal information received from a federal or
174 state government source, or from an employee or agent of the
175 state or federal government.

176 (c) After a person has received a written request from
177 a judicial officer to protect the privacy of the personal
178 information of the judicial officer and his or her immediate
179 family, the person shall have 72 hours after the receipt of
180 such request to remove the personal information from the
181 Internet.

182 (d) After a person has received a written request from
183 a judicial officer, that person shall ensure that the judicial
184 officer's and his or her immediate family member's personal
185 information is not made available on any website or subsidiary
186 website controlled by that person.

187 (e) After receiving a written request from a judicial
188 officer, no person shall transfer the judicial officer's or
189 his or her immediate family's personal information to any
190 other person.

191 (f) (1) If a person fails to comply with a written
192 request to refrain from disclosing personal information, the
193 judicial officer may bring an action seeking injunctive or
194 declaratory relief in any court of competent jurisdiction.

195 (2) If the court grants injunctive or declaratory
196 relief, the person responsible for the violation shall be



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197 required to pay the judicial officer's court costs and
198 reasonable attorney's fees.

199 Section 5. (a) It shall be unlawful for a data broker
200 to knowingly sell, license, trade for consideration, or
201 purchase the personal information of a judicial officer or his
202 or her immediate family.

203 (b) (1) If a data broker violates this section, the
204 judicial officer may bring an action seeking injunctive or
205 declaratory relief in any court of competent jurisdiction.

206 (2) If the court grants injunctive or declaratory
207 relief, the data broker responsible for the violation shall be
208 required to pay the judicial officer's court costs and
209 reasonable attorney's fees.

210 Section 6. (a) No government agency or person shall be
211 found to have violated any provision of this act if the
212 judicial officer fails to submit a written request calling for
213 the protection of his or her personal information.

214 (b) A written request shall be valid if the judicial
215 officer satisfies either of the following:

216 (1) Sends a written request directly to a government
217 agency or person.

218 (2) Sends a request to the Administrative Office of
219 Courts on a form developed and maintained by the Alabama
220 Administrative Office of Courts. The Alabama Administrative
221 Office of Courts shall use that form to notify government
222 agencies of a judicial officer's request to remove his or her
223 personal information and his or her immediate family. Every
224 three months, the Alabama Administrative Office of Courts



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225 shall provide a list to the appropriate officer with
226 supervisory authority for a government agency of all judicial
227 officers who have submitted a written request to it. The
228 officer shall promptly provide a copy of the list to all
229 government agencies under his or her supervision. Receipt of
230 the written request list compiled by the Alabama
231 Administrative Office of Courts by a government agency shall
232 constitute a written request to that agency for the purposes
233 of this act.

234 (c) A representative from the judicial officer's
235 employer may submit a written request on the judicial
236 officer's behalf if the judicial officer gives written consent
237 to the representative and the representative agrees to furnish
238 a copy of that consent when a written request is made. The
239 representative shall submit the written request as provided in
240 subsection (b).

241 (d) A judicial officer's written request shall specify
242 all of the following:

243 (1) What personal information shall be kept private.

244 (2) The identity of the officer's immediate family and
245 indicate that the personal information of these family members
246 shall also be excluded to the extent that it could reasonably
247 be expected to reveal the personal information of the judicial
248 officer.

249 (3) If a judicial officer wishes to identify a
250 secondary residence or an investment property as a home
251 address, the designation shall be made in the written request.

252 (e) A judicial officer's written request is valid until



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253 the judicial officer provides the government agency,
254 individual, business, or association with written permission
255 to release private information. A judicial officer's written
256 request expires on his or her death.

257 Section 7. (a) It is unlawful for a person to knowingly
258 publicly post on the Internet the personal information of a
259 judicial officer or the judicial officer's immediate family if
260 the individual knows or should have known that publicly
261 posting the personal information poses an imminent and serious
262 threat to the health and safety of the judicial officer or the
263 judicial officer's immediate family, and the violation is a
264 proximate cause of bodily injury or death of the judicial
265 officer or a member of the judicial officer's immediate
266 family.

267 (b) A violation of this section is a Class C felony.

268 Section 8. Provided that the employee of a government
269 agency has complied with the conditions set forth in Sections
270 3 through 6, it is not a violation of this section if an
271 employee of a government agency publishes personal
272 information, in good faith, on the website of the government
273 agency in the ordinary course of carrying out public
274 functions.

275 Section 9. Although this bill would have as its purpose
276 or effect the requirement of a new or increased expenditure of
277 local funds, the bill is excluded from further requirements
278 and application under Section 111.05 of the Constitution of
279 Alabama of 2022, because the bill defines a new crime or
280 amends the definition of an existing crime.



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281 Section 10. This act shall become effective on the
282 first day of the third month following its passage and
283 approval by the Governor, or its otherwise becoming law.