

As of 05/02/2024 09:05AM, the Laws database is current through 2024

[Chapters 1-59, 61-117](#)

Judiciary

* § 859. New York state judicial security act. 1. Definitions. As used in this article:

(a) "Eligible individual" shall mean an actively employed or former:

(i) judge or justice of the unified court system or judge of the housing part of the civil court of the city of New York; or

(ii) a federal judge, which shall include a federal judge or a senior, recalled, or retired federal judge sitting or maintaining chambers in New York, where such federal judge means:

(A) a justice of the United States or a judge of the United States, as those terms are defined in section 451 of title 28, United States Code;

(B) a bankruptcy judge appointed under section 152 of title 28, United States Code;

(C) a United States magistrate judge appointed under section 631 of title 28, United States Code;

(D) a judge confirmed by the United States Senate and empowered by statute in any commonwealth, territory, or possession to perform the duties of a federal judge;

(E) a judge of the United States Court of Federal Claims appointed under section 171 of title 28, United States Code;

(F) a judge of the United States Court of Appeals for Veterans Claims appointed under section 7253 of title 38, United States Code;

(G) a judge of the United States Court of Appeals for the Armed Forces appointed under section 942 of title 10, United States Code;

(H) a judge of the United States Tax Court appointed under section 7443 of the Internal Revenue Code of 1986; or

(I) a special trial judge of the United States Tax Court appointed under section 7443A of the Internal Revenue Code of 1986.

(b) "Immediate family" shall mean, for each eligible individual, the spouse, former spouse, parent, child, and sibling.

(c) "Personal information" shall include the following for an eligible individual and, if such individual so indicates as provided in subparagraph (ii) of paragraph (a) of subdivision two of this section, for the members of their immediate family: (i) home address, including primary residence and secondary residences; (ii) unlisted telephone number; (iii) personal cell phone number; (iv) personal email address; (v) social security number; (vi) driver's license number; (vii) license plate number; (viii) marital status and identity of any present and former spouse; (ix) identity of children under the age of eighteen; (x) name and address of a school or day care facility attended by an immediate family member; (xi) bank account number; (xii) credit or debit card number; and (xiii) personal identification number (PIN).

(d) "Cease making public the personal information" of an identified person shall mean deleting, redacting or otherwise removing any existing posting on the internet and any display or publication in any medium accessible to the public containing such personal information and ceasing the sharing, trading, or transferring of such personal information with others, as is specified in the written request of the eligible individual on whose behalf the notification is made.

(e) "Excluded entity" means a commercial entity engaged in the following activity:

(i) reporting, news-gathering, speaking, or other activity intended to inform the public on matters of public interest or public concern;

(ii) using personal information internally, providing access to businesses under common ownership or affiliated by corporate control, or selling or providing data for transaction or service requested by or concerning the individual whose personal information is being

transferred;

(iii) providing publicly available information via real-time or near real-time alert services for health or safety purposes;

(iv) any activity where the commercial entity is a consumer reporting agency subject to the Fair Credit Reporting Act (15 U.S.C. 1681, et seq.);

(v) any activity where the commercial entity is a financial institution subject to the Gramm-Leach-Bliley Act (Public Law 106-102) and regulations implementing that Act;

(vi) providing 411 directory assistance or directory information services, including name, address, and telephone number, on behalf of or as a function of a telecommunications carrier;

(vii) any activity where the commercial entity is subject to the privacy regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320-d note); and

(viii) the collection and sale or licensing of personal information incidental to conducting the activities described in this paragraph.

(f) "Public agency" shall mean an agency of the state of New York and any of its political subdivisions.

2. Written request. (a) An eligible individual or their representative may submit a written request to their employer or former employer. To be enforceable, a written request shall be signed by an eligible individual, or their representative, and specify:

(i) those items of personal information that the eligible individual wishes to be kept from being made public;

(ii) the identity of members of the eligible individual's immediate family and whether, for purposes of the written request, their personal information should be deemed to include that of such immediate family members; and

(iii) each person, business, association, and public or private agency that the eligible individual wishes to bar from making public the personal information of such eligible individual.

(b) The employer may develop procedures to review and process written requests.

(c) (i) If a written request has been properly submitted and is complete, the employer for an active or former judge or justice of the unified court system or active or former judge of the housing part of the civil court of the city of New York, as appropriate, shall, within five business days of receipt of such written request from an eligible individual, notify each person, business, association, and public or private agency identified in the written request that (A) within seventy-two hours of receipt of such notification, that such person, business, association, and public or private agency must cease making public the personal information of the eligible individual identified in such request, and (B) they must make reasonable efforts to ensure that the personal information of the eligible individual is not made available on any website or subsidiary website controlled by that person, business, or association. For purposes of this subparagraph, notification shall be by certified mail, return receipt requested, either at the recipient's last known residence (if recipient is a person) or at the recipient's principal office (which shall be the location at which the office of the chief executive officer of the recipient is generally located).

(ii) If a written request has been properly submitted and is complete, the employer of an active or former federal judge of a federal court established in New York may notify each person, business, association, and public or private agency identified in the written request that (A) within seventy-two hours of receipt of such notification, they must

cease making public the personal information of the eligible individual identified in such request, and (B) they must make reasonable efforts to ensure that the personal information of the eligible individual is not made available on any website or subsidiary website controlled by that person, business, or association. For purposes of this subparagraph, notification may be by certified mail, return receipt requested, either at the recipient's last known residence (if the recipient is a person) or at the recipient's principal office (which shall be the location at which the office of the chief executive officer of the recipient is generally located).

(iii) Notwithstanding any provision of this paragraph to the contrary, subparagraphs (i) and (ii) of this paragraph shall not apply to:

(A) display of the personal information of an eligible individual if such information is relevant to and displayed as part of a news story, commentary, editorial, or other speech on a matter of public concern;

(B) personal information that the eligible individual voluntarily publishes after the effective date of this section;

(C) personal information received from a public agency or from an agency of the federal government; and

(D) permissible uses of personal information pursuant to the Driver's Privacy Protection Act (18 U.S.C. § 2721 et seq.), except that no eligible individual making a written request under this article shall be deemed to have given express consent to share personal information for the purposes of 18 U.S.C. § 2721(b), unless the written request contains an express declaration to the contrary.

3. Recipient of notification not to make an eligible individual's personal information public. After a person, business, association, or public or private agency has received a notification pursuant to paragraph (c) of subdivision two of this section, they shall have seventy-two hours to cease making public the personal information of the eligible individual identified in such notification.

4. (a) An eligible individual may seek an injunction or declaratory relief in a court of competent jurisdiction against a person, business, association, or public or private agency that, after receiving a notification pursuant to paragraph (c) of subdivision two of this section, fails to timely comply with the requirements of such notification. If the court grants such injunctive or declaratory relief, the affected person, business, association, or agency shall be required to pay the eligible individual's costs and reasonable attorney's fees.

(b) Upon a violation of any order granting injunctive or declarative relief obtained pursuant to this subdivision, the court issuing such order may: (i) where the violator is a public agency, impose a fine not exceeding one thousand dollars and require the payment of court costs and reasonable attorney's fees; or (ii) where the violator is a person, business, association, or private agency, award damages to the affected eligible individual in an amount up to a maximum of three times the actual damages, but not less than four thousand dollars, and require the payment of court costs and reasonable attorney's fees.

5. Notwithstanding any other provision of law, where the department of motor vehicles receives a notification pursuant to paragraph (c) of subdivision two of this section, such department shall comply therewith except that, where the notification requires the department to cease making a person's address public, the department may make their business address public.

* NB Effective July 19, 2024