



Memorandum

To: Members of the Wisconsin Supreme Court
From: Ian Henderson, Director of Legal and Systems Services
Re: Petition to Create Wisconsin Statute (Rule) 809.86
Date: September 19, 2014

This memorandum from the Wisconsin Coalition Against Sexual Assault provides our position on the Petition to Create Wisconsin Statute (Rule) § 809.86 and its potential impact on sexual assault victims. WCASA is a statewide membership organization which collaborates with and supports local sexual assault service providers around the state and other organizations working to end sexual violence in Wisconsin.

WCASA supports the rule petition filed by the Judicial Council asking the court to create Wis. Stat. § (Rule) 809.86. Privacy concerns are paramount for sexual assault survivors in the aftermath of an assault. They influence every decision a sexual assault victim makes – including reporting to law enforcement, disclosing to friends and family members, as well as seeking mental health counseling. In fact, many victims are reluctant to disclose due to a fear of being blamed, something which happens all too often because of the prevalence of myth and misconception about sexual assault. Additionally, the very nature of the crime itself may lead to privacy concerns, as sexual assault victims will have to reveal very sensitive information, something which may lead many victims to refrain from seeking services or reporting to law enforcement.

For those sexual assault victims who do engage with the criminal justice system, they do so knowing that details about the crime will need to be revealed to many different parties. As a case makes its way through the system, specific details about the crime – including victim identifying information - may be included in documents available to the public on the supreme court and court of appeals websites. During my tenure at WCASA, I have had several occasions to speak with sexual assault survivors or their family members who were distraught to learn that details of the assault, along with identifying information, were included in searchable documents on the aforementioned websites. As a result of these calls, WCASA began to explore avenues for enhancing a victim's privacy while also ensuring these documents remain available for public access.



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We believe that the proposed rule, which requires the use of initials or other appropriate pseudonyms, strikes an appropriate balance between victim privacy and public accessibility of appellate briefs and court decisions. This proposal will complement victim rights that are codified in both the Wisconsin Constitution as well as Chapter 950 of the Wisconsin Statutes – namely the right to be treated with “fairness, dignity and respect for their privacy.” As a result, we support the rule petition filed by the Wisconsin Judicial Council and urge the Court to create Wisconsin Statute (Rule) 809.86.

Thank you for considering our views. If you have any questions, please feel to contact me at 608.257.1516 or ianh@wcasa.org.



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