

In Re the Matter of the Proposed Amendment to
Wisconsin Statutes § 809.86

PETITION
19-____

Mark A. Neuser, Supreme Court Commissioner, on behalf of the State Bar of Wisconsin Appellate Practice Section Board,¹ respectfully petitions the Wisconsin Supreme Court to amend Wis. Stat. § (Rule) 809.86 and publish the accompanying Comment appearing below. This petition is directed to the Supreme Court's rule-making authority under Wis. Stat. § 751.12.

Specifically, the Appellate Practice Section Board requests the adoption of the following amendments and comment to Wis. Stat. § (Rule) 809.86:

809.86 Rule (Identification of victims and others in briefing, [petitions for review, and responses to petitions for review](#)). (1) Declaration of policy. By enacting this rule, the supreme court intends to better protect the privacy and dignity interests of crime victims. It requires appellate briefs, [petitions for review, and responses to petitions for review](#) to identify crime victims by use of identifiers, as specified in sub. (4), unless there is good cause for noncompliance. The rule protects the identity of victims in appellate briefs, [petitions for review, and responses to petitions for review](#) that the courts make available online.

(2) APPLICABILITY. This section applies to appeals in the following types of cases:

(a) Section 971.17 proceedings.

(b) Criminal cases.

(c) Chapter 938 cases.

(d) Chapter 980 cases.

(e) Certiorari review of decisions or orders entered by the department of corrections, the department of health services, or the parole commission in a proceeding or case specified in pars. (a) to (d).

(f) Collateral challenges to judgments or orders entered in a proceeding or case specified in pars. (a) to (e).

(3) DEFINITION. In this section, “victim” means a natural person against whom a crime, other than a homicide, has been committed or alleged to have been committed in the appeal or proceeding. “Victim” does not include the person convicted of or alleged to have committed a crime at issue in the appeal or proceeding.

¹ The Appellate Practice Section Board includes the following members: Hon. Brian Blanchard, Atty. Frances Philomene Colbert, Atty. Joseph S. Diedrich, Atty. James Eric Goldschmidt, Atty. Amy Hetzner, Atty. Melissa Eleanor Love Koenig, Atty. Lisa M. Lawless, Atty. Anne-Louise T. Mittal, Comm. Mark A. Neuser, Atty. Aaron R. O'Neil, Atty. Eric G. Pearson, Atty. Jeremy C. Perri, Atty. Donald L. Romundson, Atty. Michelle L. Velasquez, and Atty. Donald J. Wall. Board member Atty. Clayton P. Kawski did not participate in this petition.

(4) BRIEFS, PETITIONS FOR REVIEW, AND RESPONSES TO PETITIONS FOR REVIEW. In an appeal specified under sub. (2), the briefs of the parties and any petition for review and response to the petition for review shall not, without good cause, identify a victim by any part of his or her name but may identify a victim by one or more initials or other appropriate pseudonym or designation.

(5) PROTECTIVE ORDER. For good cause, the court may make any order necessary to protect the identity of a victim or other person, or to excuse compliance with this section.

Comment, 2019: The revision extends the privacy protections of this rule to petitions for review and responses to petitions for review, so that they may be posted on the Wisconsin Supreme Court and Court of Appeals Case Access website, along with appellate briefs, in a manner that respects victim privacy concerns.

CONCLUSION

For the reasons set forth in the supporting memorandum accompanying this petition, the Wisconsin State Bar Appellate Practice Section Board respectfully requests that the Court issue an order adopting the above amendments to Wis. Stat. § (Rule) 809.86 and that it publish the accompanying Comment.

Respectfully submitted this 26th day of September, 2019.

Mark A. Neuser
Supreme Court Commissioner