

State of Wisconsin



2009 Assembly Bill 333

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2009 WISCONSIN ACT 400

AN ACT *to create* 885.14 of the statutes; **relating to:** limiting disclosure of information gathered by news persons.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 885.14 of the statutes is created to read:

885.14 Disclosure of information and sources by news person. (1) **DEFINITION.** In this section, "news person" means any of the following:

(a) Any business or organization that, by means of print, broadcast, photographic, mechanical, electronic, or other medium, disseminates on a regular and consistent basis news or information to the public, including a newspaper, magazine, or other periodical; book publisher; news agency; wire service; radio or television station or network; cable or satellite network, service, or carrier; or audio or audiovisual production company; and a parent, subsidiary, division, or affiliate of any of these businesses or organizations.

(b) Any person who is or has been engaged in gathering, receiving, preparing, or disseminating news or information to the public for an entity described in par. (a), including any person supervising or assisting the person in gathering, receiving, preparing, or disseminating such news or information.

(2) **SUBPOENAS ISSUED TO NEWS PERSON.** (a) *Prohibition.* Except as provided in par. (b), no person having the power to issue a subpoena may issue a subpoena compelling a news person to testify about or produce or disclose any of the following that is obtained or prepared by the

news person in the news person's capacity in gathering, receiving, or preparing news or information for potential dissemination to the public:

1. The identity of a confidential source of any news or information.
2. Any information that would tend to identify the confidential source of any news or information.
3. Any news or information obtained or prepared in confidence by the news person.
4. Any news, information, or identity of any source of any news or information that is not described in subd. 1., 2., or 3.

(b) *Procedure before courts.* Subject to par. (c), a circuit court may issue a subpoena to compel a news person to testify about or disclose or produce any news, information, or identity of any source as specified in par. (a) 4. if the court finds, after notice to and an opportunity to be heard by the news person that the person requesting the subpoena established, based on information obtained from a person other than the news person, one of the following by clear and convincing evidence:

1. In a criminal prosecution or investigation that there are reasonable grounds to believe that a crime has occurred.
2. In a civil action or proceeding that the complaint states a claim upon which relief may be granted.

* Section 991.11, WISCONSIN STATUTES 2007-08 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

(c) A circuit court may issue a subpoena under par. (b) only if all of the following conditions are met:

1. The news, information, or identity of the source is highly relevant to the investigation, prosecution, action, or proceeding.

2. The news, information, or identity of the source is necessary to the maintenance of a party's claim, defense, or to the proof of an issue material to the investigation, prosecution, action, or proceeding.

3. The news, information, or identity of the source is not obtainable from any alternative source for the investigation, prosecution, action, or proceeding.

4. There is an overriding public interest in the disclosure of the news, information, or identity of the source.

(3) SUBPOENAS ISSUED TO PERSONS OTHER THAN NEWS PERSONS. No person having the power to issue a subpoena may issue a subpoena to compel a person other than a news person to testify about or produce or disclose, infor-

mation, records, or communications relating to a business transaction between that person and the news person if the purpose of the subpoena is to discover any of the items listed in sub. (2) (a) 1. to 3.

(4) DISTRIBUTION. A disclosure to another person or dissemination to the public of news, information, or the identity of a source as described in sub. (2) (a) 1. to 4. by a news person does not constitute a waiver of the protection from compelled disclosure under sub. (2) or (3).

(5) INADMISSIBILITY. Any news, information, records, communications, or the identity of a source of any news or information obtained in violation of this section are inadmissible for any purpose in any judicial, legislative, or administrative action, proceeding, or hearing.

SECTION 2. Initial applicability.

(1) This act first applies to subpoenas issued on the effective date of this subsection.
