



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2009 ASSEMBLY BILL 333**

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

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

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

4 **885.14 Disclosure of information and sources by news person. (1)**

5 **DEFINITION.** In this section, “news person” means any of the following:

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

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

5 (2) SUBPOENAS ISSUED TO NEWS PERSON. (a) *Prohibition.* Except as provided in
6 par. (b), no person having the power to issue a subpoena may issue a subpoena
7 compelling a news person to testify about or produce or disclose any of the following
8 that is obtained or prepared by the news person in the news person's capacity in
9 gathering, receiving, or preparing news or information for potential dissemination
10 to the public:

11 1. The identity of a confidential source of any news or information.

12 2. Any information that would tend to identify the confidential source of any
13 news or information.

14 3. Any news or information obtained or prepared in confidence by the news
15 person.

16 4. Any news, information, or identity of any source of any news or information
17 that is not described in subd. 1., 2., or 3.

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

24 1. In a criminal prosecution or investigation that there are reasonable grounds
25 to believe that a crime has occurred.

1 2. In a civil action or proceeding that the complaint states a claim upon which
2 relief may be granted.

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

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

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

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

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

14 **(3) SUBPOENAS ISSUED TO PERSONS OTHER THAN NEWS PERSONS.** No person having
15 the power to issue a subpoena may issue a subpoena to compel a person other than
16 a news person to testify about or produce or disclose, information, records, or
17 communications relating to a business transaction between that person and the
18 news person if the purpose of the subpoena is to discover any of the items listed in
19 sub. (2) (a) 1. to 3.

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

24 **(5) INADMISSIBILITY.** Any news, information, records, communications, or the
25 identity of a source of any news or information obtained in violation of this section

1 are inadmissible for any purpose in any judicial, legislative, or administrative action,
2 proceeding, or hearing.

3 **SECTION 2. Initial applicability.**

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

6 (END)