



2005 ASSEMBLY BILL 1155

March 29, 2006 – Introduced by Representatives ZEPNICK, MOLEPSKE and LEHMAN.
Referred to Committee on Judiciary.

1 **AN ACT** *to create* 804.01 (7) of the statutes; **relating to:** limits on discovery from
2 journalists.

Analysis by the Legislative Reference Bureau

This bill codifies the decision of the Wisconsin Court of Appeals in *Kurzynski v. Spaeth*, 196 Wis. 2d. 182, 538 NW 2d 554 (Ct App., 1995), which limits the discovery of information from a member of a news media in a civil action. Generally, the parties to a civil action may obtain discovery regarding any matter that is not privileged and that is relevant to the subject matter involved in the pending action. Currently, parties to a civil action may obtain by discovery any material that appears reasonably calculated to lead to the discovery of admissible evidence.

This bill allows discovery of material from members of the news media in civil actions only if the requested material is not available from other sources, does not duplicate what is already known by the party seeking the material, and is clearly relevant to an important issue in the case and the relevance is actual, not just potential.

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

3 **SECTION 1.** 804.01 (7) of the statutes is created to read:

ASSEMBLY BILL 1155**SECTION 1**

1 804.01 (7) LIMITS ON DISCOVERY FROM A REPRESENTATIVE OF A NEWS MEDIA. A party
2 may obtain discovery from a member of the news media in a civil case only if all of
3 the following conditions exist:

4 (a) The party seeking discovery shows by a preponderance of the evidence that
5 the requested material is unavailable from other sources despite exhaustion of all
6 reasonable alternative sources.

7 (b) The requested material does not duplicate what is already known by the
8 person seeking the information.

9 (c) The party seeking the material shows that material being sought is clearly
10 relevant to an important issue in the case and that the relevance is actual, not just
11 potential.

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(END)