

May: State shield law a step forward

Written by By Dee J. Hall

Last month, as the current legislative session ground to a close, Wisconsin became the 39th state to pass a shield law for news reporters.

The law, the Whistleblower Protection Act, provides assurance to confidential sources that their identities will be protected should an attempt be made in court to force a reporter to reveal this information.

Gov. Jim Doyle has expressed some support for the bill and advocates of open government are optimistic that he will, on review, sign it into law.

Congress is considering a similar measure to protect media outlets and whistleblowers nationally.

Bill Lueders, president of the Wisconsin Freedom of Information Council, says promises of anonymity are crucial in news gathering, especially when pursuing allegations of waste, fraud and abuse. Confidential sources who provide the media with tips or crucial documents often face the loss of their jobs or other retaliation if their identities are revealed.

Lueders cites the example of Raquel Rutledge, a Milwaukee Journal Sentinel reporter, who recently won the Pulitzer Prize for revealing official indifference to millions of dollars in fraud in the Wisconsin Shares taxpayer-financed child care program for the poor. Rutledge's series exposed a system that for years allowed crooked day-care providers to steal from Wisconsin taxpayers and drain precious support away from deserving families.

On her Facebook page, Rutledge thanks "the courageous whistleblowers who have stepped forward to help me with this story, at no small risk to themselves. It is those kind of people without which such stories would not be possible."

In recent decades, Wisconsin courts have recognized the special place reporters occupy in our democratic system by shielding them in some cases from revealing confidential sources. But

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the new law means news organizations must no longer hope for a sympathetic judge; their unique role is codified in state law.

The measure, sponsored by Rep. Joe Parisi, D-Madison, and Sen. Pat Kreitlow, D-Chippewa Falls, provides an absolute protection as to the identity of a confidential source. That means reporters cannot be threatened with fines or even jail time if they refuse to reveal who told them what after being promised confidentiality.

Non-confidential information can still be subpoenaed from media, but only if those seeking this information can show there is an overriding public interest in its disclosure and other means for obtaining the information have been exhausted.

In a recent column in *The Atlantic* magazine, Michael Kinsley questioned why the media should be treated differently from anyone else. The question is not whether journalists should be forced to break promises to anonymous sources, Kinsley wrote. The question is whether they should have made these promises in the first place.

Here's why: If reporters can't protect their sources, the most closely guarded secrets of corrupt and inept officials, shady business owners and dangerous religious figures probably will stay that way.

It was, in other respects, not a bad year for open government. The Legislature also acted to close a loophole that was blocking public access to the names of professional license-holders. And it rejected ill-considered attempts to restrict public access to online court records and make it against the law to play recordings of 911 calls.

Earnest people can debate whether this was, on balance, an especially productive legislative session. But when it comes to openness in government, lawmakers did their jobs.

Your Right to Know is a monthly column distributed by the Wisconsin Freedom of Information Council (www.wisfoic.org), dedicated to open meetings and open records. Dee Hall, the group's secretary, is a reporter for the Wisconsin State Journal.

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