



For Immediate Release
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Rep Doyle: Legislators Shouldn't Get Special Immunity

A loud knock on the door. The apartment tenant glances anxiously out the window. A sheriff's car is idling out front. "I knew I should have paid my rent this month," the tenant thinks. "Or the month before that." His heart races as the deputy approaches, file folder in hand. The tenant opens his door, frantically searching for the best excuse to save him from eviction. The deputy is about to serve him with the eviction notice. Suddenly, the deputy stops. "Senator Jones? Sorry - I didn't make the connection. Sorry to bother you. Have a nice night." "Membership has its privileges," Senator Jones chuckles to himself.

You see, Senator Jones belongs to a very exclusive club. As a state legislator he has immunity to civil process "during the legislative session" under our state constitution. Under a new interpretation by our Attorney General, that immunity applies during every day of every year of a legislator's tenure in office – possibly extending for decades. Given that not paying rent is not a criminal offense in Wisconsin Senator Jones cannot be evicted for missed payments for as long as he remains in office.

It was not always that way. In fact, no court nor Wisconsin Attorney General has ever previously interpreted our State Constitution to give a free pass to state legislators for their entire term. However, in a pending case involving a State Senator from Wauwatosa who didn't want to turn over documents in a court case involving the Open Records Law, the Attorney General intervened to make just that argument. He argued that the legislature in recent years has been "in session" for the entire term, not just the few weeks we actually debate bills on the floor. That is a very extreme position to take and essentially makes state legislators above the law in terms of civil procedure.

The Open Records Law requires public officials to turn over documents requested by members of the public whenever a request is made. You don't need to give a reason or tell us what you plan to do with the records. We work for you and our records are your records. If we want our privacy, we can always find work in the private sector. Want to know how many letters I have gotten on a particular issue? Just ask. Curious about how much of my office allowance I have spent so far? It's all public. (By the way I have only spent about \$1350 out of \$15,000 allotted.)

When the Attorney General argued in court documents that the State Constitution should be interpreted more broadly than courts have done in the past, he was opening a door that has very significant consequences. That is because "civil process" as used in the State Constitution



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doesn't just apply to the Open Records Law. Under the logic that I am immune from civil process during my entire tenure in the legislature, I can stop paying my mortgage and not have to worry about foreclosure. I can shoot that big buck in my back yard before hunting season starts. I can stop paying my bills and not get sued. And, if my wife thinks I've taken all this a little too far, she is going to have to wait until I'm out of office before she can file for divorce or get a restraining order against me.

Elected officials should follow the law, just like everyone else. When we think we are above the law we jeopardize not only our personal credibility, but the integrity of our representative form of government. The Attorney General should admit that he erred on this issue and instead follow the limited liability approach that has always applied in the past.