

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 1009

Judiciary I Committee Substitute Adopted 4/26/99

House Committee Substitute Favorable 6/14/99

Fourth Edition Engrossed 6/23/99

Short Title: Journalists' Testimonial Privilege.

(Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO PROMOTE THE FREE FLOW OF INFORMATION TO THE PEOPLE OF NORTH CAROLINA BY CODIFYING THE JOURNALISTS' TESTIMONIAL PRIVILEGE.

The General Assembly of North Carolina enacts:

Section 1. Article 7 of Chapter 8 of the General Statutes is amended by adding a new section to read:

"§ 8-53.9. Persons, companies, or other entities engaged in gathering or dissemination of news.

(a) Definitions. The following definitions apply in this section:

(1) Journalist. – Any person, company, or entity, or the employees, independent contractors, or agents of that person, company, or entity, engaged in the business of gathering, compiling, writing, editing, photographing, recording, or processing information for dissemination via any news medium.

(2) Legal proceeding. – Any grand jury proceeding or grand jury investigation; any criminal prosecution, civil suit, or related proceeding

1                   in any court; and any judicial or quasi-judicial proceeding before any  
2                   administrative, legislative, or regulatory board, agency, or tribunal.

3           (3)   News medium. – Any entity regularly engaged in the business of  
4           publication or distribution of news via print, broadcast, or other  
5           electronic means accessible to the general public.

6           (b)   A journalist has a qualified privilege against disclosure in any legal proceeding  
7           of any confidential or nonconfidential information, document, or item obtained or  
8           prepared while acting as a journalist.

9           (c)   In order to overcome the qualified privilege provided by subsection (b) of this  
10          section, any person seeking to compel a journalist to testify or produce information must  
11          establish by the greater weight of the evidence that the testimony or production sought:

12           (1)   Is relevant and material to the proper administration of the legal  
13           proceeding for which the testimony or production is sought;

14           (2)   Cannot be obtained from alternate sources; and

15           (3)   Is essential to the maintenance of a claim or defense of the person on  
16           whose behalf the testimony or production is sought.

17          Any order to compel any testimony or production as to which the qualified privilege  
18          has been asserted shall be issued only after notice to the journalist and a hearing and shall  
19          include clear and specific findings as to the showing made by the person seeking the  
20          testimony or production.

21          (d)   Notwithstanding subsections (b) and (c) of this section, a journalist has no  
22          privilege against disclosure of any information, document, or item obtained as the result  
23          of the journalist's eyewitness observations of criminal or tortious conduct, including any  
24          physical evidence or visual or audio recording of the observed conduct."

25          Section 2. This act becomes effective October 1, 1999, and applies to  
26 information, documents, or items obtained or prepared while acting as a journalist on or  
27 after that date.