

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 1999-267
SENATE BILL 1009

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 in any court; and any judicial or quasi-judicial proceeding before any administrative, legislative, or regulatory board, agency, or tribunal.
- (3) News medium. – Any entity regularly engaged in the business of publication or distribution of news via print, broadcast, or other electronic means accessible to the general public.

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

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

- (1) Is relevant and material to the proper administration of the legal proceeding for which the testimony or production is sought;
- (2) Cannot be obtained from alternate sources; and
- (3) Is essential to the maintenance of a claim or defense of the person on whose behalf the testimony or production is sought.

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

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

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

In the General Assembly read three times and ratified this the 30th day of June, 1999.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 1:15 p.m. this 9th day of July, 1999