

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1200
Committee Substitute Favorable 4/27/99

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 engaged in gathering,
compiling, writing, editing, photographing, recording, or processing
information for dissemination via any news medium.

(2) Legal proceeding. – Any grand jury proceeding or 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 publication or
distribution of news via printed or electronic means.

1 (b) Notwithstanding any other provision of law, a journalist has a qualified
2 privilege against disclosure in any legal proceeding of any confidential or nonconfidential
3 information, document, or item obtained or prepared while acting as a journalist.

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

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

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

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

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

16 (d) In a proceeding to quash any subpoena on the basis of any privilege established
17 by this section, the court may, after conducting a hearing, grant reasonable attorneys' fees
18 and expenses to the prevailing party."

19 Section 2. This act becomes effective October 1, 1999, and applies to all
20 actions and proceedings pending in the courts of this State on or after that date.