

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 1009

Short Title: Journalists' Testimonial Privilege.

(Public)

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Sponsors: Senators Hoyle; Ballantine, Dalton, East, Kerr, Lee, Soles, and Webster.

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Referred to: Judiciary I.

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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)** A journalist has a qualified privilege against disclosure in any legal proceeding  
2 of any confidential or nonconfidential information, document, or item obtained or  
3 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       Section 2. This act is effective when it becomes law and applies to all actions  
17 and proceedings pending in the courts of this State on or after that date.