

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

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SENATE BILL 1009
Judiciary I Committee Substitute Adopted 4/26/99

Short Title: Journalists' Testimonial Privilege.

(Public)

Sponsors:

Referred to:

April 15, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO PROMOTE THE FREE FLOW OF INFORMATION TO THE PEOPLE
3 OF NORTH CAROLINA BY CODIFYING THE JOURNALISTS' TESTIMONIAL
4 PRIVILEGE.

5 The General Assembly of North Carolina enacts:

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

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

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

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

16 (2) Legal proceeding. – Any grand jury proceeding or investigation; any
17 criminal prosecution, civil suit, or related proceeding in any court; and,
18 any judicial or quasi-judicial proceeding before any administrative,
19 legislative, or regulatory board, agency, or tribunal.

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

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

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

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

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

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

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

19 Section 2. This act is effective when it becomes law and applies to all actions
20 and proceedings pending in the courts of this State on or after that date.