
A BILL FOR AN ACT

RELATING TO EVIDENCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 621, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§621- Limitation on compellable testimony from
5 journalists or newscasters; exceptions. (a) A journalist or
6 newscaster shall not be required by an authority to disclose:

7 (1) A source; or

8 (2) Information that, independently, cumulatively, or in
9 combination with other information, could reasonably
10 be expected to lead to the discovery of the identity
11 of the source.

12 (b) The limitation on compellable testimony established by
13 this section for a journalist or newscaster may also be claimed
14 by and afforded to any individual who can demonstrate by clear
15 and convincing evidence that:

16 (1) The individual has regularly and materially
17 participated in the reporting or publishing of news or



- 1 information of substantial public interest for the
2 purpose of dissemination to the general public by
3 means of tangible or electronic media;
- 4 (2) The position of the individual is materially similar
5 or identical to that of a journalist or newscaster,
6 taking into account the method of dissemination;
- 7 (3) The interest of the individual in protecting the
8 sources and unpublished information under subsection
9 (a) is materially similar to the interest of the
10 individuals referenced under subsection (a); and
- 11 (4) The public interest is served by affording the
12 protections of this section in a specific circumstance
13 under consideration.
- 14 (c) This section shall not apply if:
- 15 (1) Probable cause exists to believe that the person
16 claiming the privilege has committed, is committing,
17 or is about to commit a crime;
- 18 (2) The person claiming the privilege has observed the
19 alleged commission of a crime, but if:



- 1 (A) The interest in maintaining the privilege granted
2 by this section outweighs the public interest in
3 disclosure; and
- 4 (B) The commission of the crime is the act of
5 communicating or providing the information or
6 documents at issue,
7 then the privilege granted by this section may be
8 asserted;
- 9 (3) There is substantial evidence that the source or
10 information sought to be disclosed is material to the
11 investigation, prosecution, or defense of a felony, or
12 to a civil action for defamation, and the source or
13 information sought is:
- 14 (A) Unavailable, despite exhaustion of reasonable
15 alternative sources;
- 16 (B) Noncumulative; and
- 17 (C) Necessary and relevant to the charge, claim, or
18 defense asserted;
- 19 (4) The information sought to be disclosed is critical to
20 prevent serious harm to life or public safety;



1 (5) The source consents to the disclosure of unpublished
2 documents or other tangible materials provided by the
3 source; or

4 (6) The source is the person claiming the privilege.

5 (d) No fine or imprisonment shall be imposed against a
6 person claiming the privilege pursuant to this section for
7 refusal to disclose information privileged pursuant to this
8 section.

9 (e) The claim of privilege does not exclude or preclude
10 the exercise of other legally recognized privileges.

11 (f) The claim of privilege is waived for all purposes if
12 the person holding the privilege reveals the source outside of
13 any legally recognized privilege.

14 (g) A person entitled to the privilege has no legal duty
15 to the source to claim or maintain the privilege.

16 (h) As used in this section:

17 "Authority" means a legislative, executive, or judicial
18 officer or body, or any other authority having the power to
19 compel testimony or the production of evidence, by subpoena or
20 otherwise.



1 "Journalist or newscaster" means a person presently or
2 previously employed by or otherwise professionally associated
3 with any broadcast, publication, or any digital version thereof
4 operated by the same organization, news agency, press
5 association, wire service, or radio or television transmission
6 station or network.

7 "Source" means the source of any published or unpublished
8 information obtained by the journalist or newscaster while so
9 employed or professionally associated in the course of
10 gathering, receiving, or processing information for
11 communication to the public."

12 SECTION 2. New statutory material is underscored.

13 SECTION 3. This Act shall take effect upon its approval.



Report Title:

Journalists and Newscasters; Disclosure

Description:

Limits compelled disclosure of sources or unpublished information by journalists, newscasters and persons participating in collection or dissemination of news or information of substantial public interest. Establishes exceptions. (HB295 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

