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## A BILL FOR AN ACT

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RELATING TO EVIDENCE.

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

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

**"§621- Limitation on compellable testimony from journalists and newscasters; exception.** (a) A journalist or newscaster presently or previously employed or otherwise associated with any newspaper, magazine, news agency, press association, wire service, or radio or television transmission station or network shall not be required by a legislative, executive, or judicial officer or body, or any other authority having the power to compel testimony or the production of evidence, to disclose, by subpoena or otherwise, the source of any published or unpublished information obtained by the person in the course of gathering, receiving, or processing information for communication to the public.

(b) The limitation on compellable testimony established by this section may also be claimed by and afforded to any



1 individual who can demonstrate by clear and convincing evidence  
2 that:

3 (1) The individual has regularly and materially  
4 participated in reporting or publishing news or  
5 information of substantial public interest for the  
6 purpose of dissemination to the general public by  
7 means of tangible or electronic media;

8 (2) The position of the individual is materially similar  
9 or identical to that of a journalist or newscaster,  
10 taking into account the method of dissemination;

11 (3) The interest of the individual in protecting the  
12 sources and unpublished information under subsection  
13 (a) is materially similar to the interest of the  
14 individuals referenced under subsection (a); and

15 (4) The public interest is served by affording the  
16 protections of this section in the specific  
17 circumstance under consideration.

18 (c) This section shall not apply if:

19 (1) Probable cause exists to believe that the person  
20 claiming the privilege has committed, is committing,  
21 or is about to commit a crime;



1        (2) The person claiming the privilege has observed the  
2        alleged commission of a crime, provided that if:

3        (A) The interest in maintaining the privilege granted  
4        by this section outweighs the public interest in  
5        disclosure; and

6        (B) The commission of the crime is the act of  
7        communicating or providing the information or  
8        documents at issue,

9        then the privilege granted by this section may be  
10       asserted;

11       (3) There is substantial evidence that the source or  
12       information sought to be disclosed is material to the  
13       investigation, prosecution, or defense of a felony or  
14       to a civil action, and the source or information  
15       sought is:

16       (A) Unavailable, despite exhaustion of reasonable  
17       alternative sources;

18       (B) Noncumulative; and

19       (C) Necessary and relevant to the charge, claim, or  
20       defense asserted;



1        (4) The information sought to be disclosed is critical to  
2        prevent serious harm to life or public safety; or

3        (5) The source consents to the disclosure of unpublished  
4        documents or other tangible materials provided by the  
5        source.

6        (d) No fine or imprisonment shall be imposed against a  
7        person validly claiming a privilege pursuant to this section."

8        SECTION 2. This Act does not affect rights and duties that  
9        matured, penalties that were incurred, and proceedings that were  
10       begun before its effective date.

11       SECTION 3. New statutory material is underscored.

12       SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:



JAN 26 2021



# H.B. NO. 1181

**Report Title:**

Journalists and Newscasters; Sources; Information; Disclosure; Limits

**Description:**

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

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

