

**No. 40. An act relating to a news media privilege.**

(S.96)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 12 V.S.A. § 1616 is added to read:

§ 1616. JOURNALIST'S PRIVILEGE

(a) Definitions. As used in this section:

(1) "Journalist" means:

(A) an individual or organization engaging in journalism or assisting an individual or organization engaging in journalism at the time the news or information sought to be compelled pursuant to subsection (b) of this section was obtained; or

(B) any supervisor, employer, parent company, subsidiary, or affiliate of an individual or organization engaging in journalism at the time the news or information sought to be compelled pursuant to subsection (b) of this section was obtained.

(2) "Journalism" means:

(A) investigating issues or events of public interest for the primary purpose of reporting, publishing, or distributing news or information to the public, whether or not the news or information is ultimately published or distributed; or

(B) preparing news or information concerning issues or events of public interest for publishing or distributing to the public, whether or not the news or information is ultimately published or distributed.

(b) Compelled disclosure.

(1) No court or legislative, administrative, or other body with the power to issue a subpoena shall compel:

(A) a journalist to disclose news or information obtained or received in confidence, including:

(i) the identity of the source of that news or information; or

(ii) news or information that is not published or disseminated, including notes, outtakes, photographs, photographic negatives, video or audio recordings, film, or other data.

(B) a person other than a journalist to disclose news or information obtained or received from a journalist if a journalist could not be compelled to disclose the news or information pursuant to subdivision (A) of this subdivision (1).

(2) No court or legislative, administrative, or other body with the power to issue a subpoena shall compel:

(A) a journalist to disclose news or information that was not obtained or received in confidence unless it finds that the party seeking the news or information establishes by clear and convincing evidence that:

(i) the news or information is highly material or relevant to a significant legal issue before the court or other body;

(ii) the news or information could not, with due diligence, be obtained by alternative means; and

(iii) there is a compelling need for disclosure.

(B) a person other than a journalist to disclose news or information obtained or received from a journalist if a journalist could not be compelled to disclose the news or information pursuant to subdivision (A) of this subdivision (2).

(c) No implication of waiver. The publication or dissemination of news or information shall not constitute a waiver of the protection from compelled disclosure as provided in subsection (b) of this section.

## Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

Date Governor signed bill: May 17, 2017