

1 TO THE HONORABLE SENATE:

2 The Committee on Government Operations to which was referred Senate
3 Bill No. 96 entitled “An act relating to a news media privilege” respectfully
4 reports that it has considered the same and recommends that the bill be
5 amended by striking out all after the enacting clause and inserting in lieu
6 thereof the following:

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

8 § 1616. JOURNALIST’S PRIVILEGE

9 (a) Definitions. As used in this section:

10 (1) “Journalist” means:

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

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

19 (2) “Journalism” means:

20 (A) investigating issues or events of public interest for the primary
21 purpose of reporting, publishing, or distributing news or information to the

1 public, whether or not the news or information is ultimately published or
2 distributed; or

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

6 (b) Compelled disclosure.

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

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

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

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

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

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

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

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

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

8 (iii) there is a compelling need for disclosure.

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

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

15 Sec. 2. EFFECTIVE DATE

16 This act shall take effect on passage.

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18 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE