

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

3

SENATE BILL 1009
Judiciary I Committee Substitute Adopted 4/26/99
House Committee Substitute Favorable 6/14/99

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

16 (2) Legal proceeding. – Any grand jury proceeding or grand jury
17 investigation; any criminal prosecution, civil suit, or related proceeding

1 in any court; and any judicial or quasi-judicial proceeding before any
2 administrative, legislative, or regulatory board, agency, or tribunal.

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

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

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

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

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

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

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

21 Section 2. This act becomes effective October 1, 1999, and applies to
22 information, documents, or items obtained or prepared while acting as a journalist on or
23 after that date.