

HOUSE BILL 385

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4lr0375

By: **Delegate Rosenberg**

Introduced and read first time: January 23, 2014

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 4, 2014

CHAPTER _____

1 AN ACT concerning

2 **Privileged Communications – Dissemination of News or Information by**
3 **Certain Persons**

4 FOR the purpose of applying certain provisions of law that protect privileged
5 communications with members of the news media to a person who is, or has
6 been, an independent contractor ~~or agent~~ of the news media under certain
7 circumstances; and generally relating to privileged communications with the
8 news media.

9 BY repealing and reenacting, with amendments,
10 Article – Courts and Judicial Proceedings
11 Section 9–112
12 Annotated Code of Maryland
13 (2013 Replacement Volume and 2013 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
15 MARYLAND, That the Laws of Maryland read as follows:

16 **Article – Courts and Judicial Proceedings**

17 9–112.

18 (a) In this section, “news media” means:

19 (1) Newspapers;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



- 1 (2) Magazines;
- 2 (3) Journals;
- 3 (4) Press associations;
- 4 (5) News agencies;
- 5 (6) Wire services;
- 6 (7) Radio;
- 7 (8) Television; and
- 8 (9) Any printed, photographic, mechanical, or electronic means of
9 disseminating news and information to the public.

10 (b) The provisions of this section apply to any person who is, or has been:

11 (1) Employed by the news media in any news gathering or news
12 disseminating capacity; [or]

13 **(2) AN INDEPENDENT CONTRACTOR ~~OR AGENT~~ OF THE NEWS**
14 **MEDIA ACTING WITHIN THE SCOPE OF A CONTRACT IN ANY NEWS GATHERING**
15 **OR NEWS DISSEMINATING CAPACITY, ~~INCLUDING A SELF-EMPLOYED~~**
16 **JOURNALIST; OR**

17 **[(2)] (3)** Enrolled as a student in an institution of postsecondary
18 education and engaged in any news gathering or news disseminating capacity
19 recognized by the institution as a scholastic activity or in conjunction with an activity
20 sponsored, funded, managed, or supervised by school staff or faculty.

21 (c) Except as provided in subsection (d) of this section, any judicial,
22 legislative, or administrative body, or anybody that has the power to issue subpoenas
23 may not compel any person described in subsection (b) of this section to disclose:

24 (1) The source of any news or information procured by the person
25 while employed by the news media or while enrolled as a student, whether or not the
26 source has been promised confidentiality; or

27 (2) Any news or information procured by the person while employed by
28 the news media **OR WHILE ACTING AS AN INDEPENDENT CONTRACTOR OF THE**
29 **NEWS MEDIA**, in the course of pursuing a professional activity, or any news or
30 information procured by the person while enrolled as a student, in the course of
31 pursuing a scholastic activity or in conjunction with an activity sponsored, funded,

1 managed, or supervised by school staff or faculty, for communication to the public but
2 which is not so communicated, in whole or in part, including:

- 3 (i) Notes;
- 4 (ii) Outtakes;
- 5 (iii) Photographs or photographic negatives;
- 6 (iv) Video and sound tapes;
- 7 (v) Film; and
- 8 (vi) Other data, irrespective of its nature, not itself disseminated
9 in any manner to the public.

10 (d) (1) A court may compel disclosure of news or information, if the court
11 finds that the party seeking news or information protected under subsection (c)(2) of
12 this section has established by clear and convincing evidence that:

- 13 (i) The news or information is relevant to a significant legal
14 issue before any judicial, legislative, or administrative body, or anybody that has the
15 power to issue subpoenas;
- 16 (ii) The news or information could not, with due diligence, be
17 obtained by any alternate means; and
- 18 (iii) There is an overriding public interest in disclosure.

19 (2) A court may not compel disclosure under this subsection of the
20 source of any news or information protected under subsection (c)(1) of this section.

21 (e) If any person described in subsection (b) of this section disseminates a
22 source of any news or information, or any portion of the news or information procured
23 while pursuing an activity described in subsection (b) of this section, the protection
24 from compelled disclosure under this section is not waived by the person.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2014.