

By the Committees on Civil Justice & Claims, Civil Justice & Claims and Representatives Rojas and Diaz de la Portilla

1                                   A bill to be entitled  
2           An act relating to disclosure of information;  
3           creating s. 90.5015, F.S.; providing  
4           definitions; providing to a professional  
5           journalist the qualified privilege not to be a  
6           witness concerning, and not to disclose,  
7           certain information, including a source's  
8           identity, obtained while the journalist was  
9           actively gathering news; restricting  
10          applicability of the privilege to information  
11          or eye witness observations obtained within the  
12          normal scope of employment; providing that the  
13          privilege is not applicable to physical  
14          evidence of crime; providing for a hearing,  
15          specified showing, and a court order for  
16          disclosure of certain nonconfidential  
17          information; prescribing guidelines with  
18          respect to nonwaiver and construction of the  
19          privilege; providing for severability; amending  
20          s. 945.10, F.S.; deleting a provision that  
21          presentence or postsentence investigative  
22          records are confidential and exempt from public  
23          records law requirements for disclosure;  
24          providing an effective date.

25  
26 Be It Enacted by the Legislature of the State of Florida:  
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28           Section 1. Section 90.5015, Florida Statutes, is  
29 created to read:

30           90.5015 Journalist's privilege.--

31           (1) For purposes of this section:

1       (a) "Professional journalist" means a person regularly  
2 engaged in collecting, photographing, recording, writing,  
3 editing, reporting, or publishing news, for gain or  
4 livelihood, who obtained the information sought while working  
5 as a salaried employee of, or independent contractor for, a  
6 newspaper, news journal, news agency, press association, wire  
7 service, radio or television station, network, or news  
8 magazine. Book authors and others who are not journalists, in  
9 the traditional sense of the term, shall not be considered  
10 professional journalists for purposes of this section.

11       (b) "News" means information of public concern  
12 relating to local, statewide, national, or worldwide issues or  
13 events.

14       (2) A professional journalist has a qualified  
15 privilege not to be a witness concerning, and not to disclose,  
16 the information, including the identity of any source, that  
17 the professional journalist has obtained while actively  
18 gathering news. This privilege shall only apply to  
19 information or eye witness observations obtained within the  
20 normal scope of employment, and shall not apply to physical  
21 evidence of crime. A party seeking to overcome this privilege  
22 must make a clear and specific showing that:

23       (a) The information is relevant and material to  
24 unresolved issues that have been raised in the proceeding for  
25 which the information is sought;

26       (b) The information cannot be obtained from  
27 alternative sources; and

28       (c) A compelling interest exists for requiring  
29 disclosure of the information.

30       (3) A court shall order disclosure pursuant to  
31 subsection (2) only of that portion, or portions, of the

1 information for which the showing under subsection (2) has  
2 been made and shall support such order with clear and specific  
3 findings made after a hearing.

4 (4) A professional journalist does not waive the  
5 privilege provided by subsection (2) by disclosing all or any  
6 part of the information protected by the privilege to any  
7 other person, notwithstanding s. 90.507.

8 (5) No provision of this section shall be construed to  
9 limit any privilege or right provided to a professional  
10 journalist under law.

11 (6) If any provision of this section or its  
12 application to any particular person or circumstance is held  
13 invalid, that provision or its application shall be deemed  
14 severable and shall not affect the validity of other  
15 provisions or applications of this section.

16 Section 2. Paragraph (b) of subsection (1) of section  
17 945.10, Florida Statutes, is amended to read:

18 945.10 Confidential information.--

19 (1) Except as otherwise provided by law or in this  
20 section, the following records and information of the  
21 Department of Corrections are confidential and exempt from the  
22 provisions of s. 119.07(1) and s. 24(a), Art. I of the State  
23 Constitution:

24 (b) Preplea or, ~~pretrial intervention, presentence or~~  
25 ~~postsentence investigative~~ records.

26 Section 3. This act shall take effect upon becoming a  
27 law.