

1                   A bill to be entitled  
2           An act relating to a journalist's privilege;  
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;  
20          providing an effective date.

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22   Be It Enacted by the Legislature of the State of Florida:

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24           Section 1.   Section 90.5015, Florida Statutes, is  
25   created to read:

26           90.5015 Journalist's privilege.--

27           (1) For purposes of this section:

28           (a) "Professional journalist" means a person regularly  
29   engaged in collecting, photographing, recording, writing,  
30   editing, reporting, or publishing news, for gain or  
31   livelihood, who obtained the information sought while working

1 as a salaried employee of, or independent contractor for, a  
2 newspaper, news journal, news agency, press association, wire  
3 service, radio or television station, network, or news  
4 magazine. Book authors and others who are not professional  
5 journalists, as defined herein, are not included in the  
6 provisions of this section.

7 (b) "News" means information of public concern  
8 relating to local, statewide, national, or worldwide issues or  
9 events.

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

20 (a) The information is relevant and material to  
21 unresolved issues that have been raised in the proceeding for  
22 which the information is sought;

23 (b) The information cannot be obtained from  
24 alternative sources; and

25 (c) A compelling interest exists for requiring  
26 disclosure of the information.

27 (3) A court shall order disclosure pursuant to  
28 subsection (2) only of that portion, or portions, of the  
29 information for which the showing under subsection (2) has  
30 been made and shall support such order with clear and specific  
31 findings made after a hearing.

1           (4) A professional journalist does not waive the  
2 privilege by publishing or broadcasting information.

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

6           (6) If any provision of this section or its  
7 application to any particular person or circumstance is held  
8 invalid, that provision or its application shall be deemed  
9 severable and shall not affect the validity of other  
10 provisions or applications of this section.

11           (7) Authentication: Photographs, diagrams, video  
12 recordings, audio recordings, computer records or other  
13 business records maintained, disclosed, provided or produced  
14 by a professional journalist, or by the employer or principal  
15 or a professional journalist, may be authenticated for  
16 admission in evidence upon and showing, by affidavit of the  
17 professional journalist, or other individual with personal  
18 knowledge; that the photograph, diagram, video recording,  
19 audio recording, computer record, or other business record is  
20 a true and accurate copy of the original, and that the copy  
21 truly and accurately reflects the observations and facts  
22 contained therein.

23           (8) If the affidavit of authenticity and accuracy, or  
24 other relevant factual circumstance, causes the court to have  
25 clear and convincing doubts as to the authenticity or accuracy  
26 of the proffered evidence, the court may decline to admit such  
27 evidence.

28           Section 2. This act shall take effect upon becoming a  
29 law.  
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