H.B. NO. ²⁵⁵⁷ H.D. 1 S.D. 1

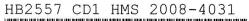
C.D. 1

A BILL FOR AN ACT

RELATING TO EVIDENCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Chapter 621, Hawaii Revised Statutes, is 1 2 amended by adding a new section to be appropriately designated 3 and to read as follows: 4 "§621- Limitation on compellable testimony from 5 journalists and newscasters; exceptions. (a) A journalist or 6 newscaster presently or previously employed by or otherwise 7 professionally associated with any newspaper or magazine or any 8 digital version thereof operated by the same organization, news 9 agency, press association, wire service, or radio or television 10 transmission station or network, shall not be required by a 11 legislative, executive, or judicial officer or body, or any 12 other authority having the power to compel testimony or the 13 production of evidence, to disclose, by subpoena or otherwise: 14 (1) The source, or information that could reasonably be 15 expected to lead to the discovery of the identity of 16 the source, of any published or unpublished 17 information obtained by the person while so employed 18 or professionally associated in the course of

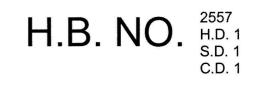


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1		gathering, receiving, or processing information for
2		communication to the public; or
3	(2)	Any unpublished information obtained or prepared by
4		the person while so employed or professionally
5		associated in the course of gathering, receiving, or
6		processing information for communication to the
7		public.
8	(b)	The limitation on compellable testimony established by
9	this sect	ion may also be claimed by and afforded to any
10	individua	l who can demonstrate by clear and convincing evidence
11	that:	
12	(1)	The individual has regularly and materially
13		participated in the reporting or publishing of news or
14		information of substantial public interest for the
15		purpose of dissemination to the general public by
16		means of tangible or electronic media;
17	(2)	The position of the individual is materially similar
18		or identical to that of a journalist or newscaster,
19		taking into account the method of dissemination;
20	(3)	The interest of the individual in protecting the
21		sources and unpublished information under subsection





1		(a) is materially similar to the interest of the
2		individuals referenced under subsection (a); and
3	(4)	The public interest is served by affording the
4		protections of this section in a specific circumstance
5		under consideration.
6	<u>(c)</u>	This section shall not apply if:
7	(1)	Probable cause exists to believe that the person
8		claiming the privilege has committed, is committing,
9		or is about to commit a crime;
10	(2)	The person claiming the privilege has observed the
11		alleged commission of a crime, but if:
12		(A) The interest in maintaining the privilege granted
13		by this section outweighs the public interest in
14		disclosure; and
15		(B) The commission of the crime is the act of
16		communicating or providing the information or
17		documents at issue,
18		then the privilege granted by this section may be
19		asserted;
20	(3)	There is substantial evidence that the source or
21		information sought to be disclosed is material to the
22		investigation, prosecution, or defense of a felony, or
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1		to a civil action for defamation, and the source or
2		information sought is:
3		(A) Unavailable, despite exhaustion of reasonable
4		alternative sources;
5		(B) Noncumulative; and
6		(C) Necessary and relevant to the charge, claim, or
7		defense asserted;
8	(4)	The information sought to be disclosed is critical to
9		prevent serious harm to life or public safety; or
10	(5)	The source consents to the disclosure of unpublished
11	1	documents or other tangible materials provided by the
12		source.
13	(d)	No fine or imprisonment shall be imposed against a
14	person cl	aiming the privilege pursuant to this section for
15	refusal t	o disclose information privileged pursuant to this
16	section."	
17	SECT	ION 2. New statutory material is underscored.
18	SECT	ION 3. This Act shall take effect upon its approval,
19	and shall	be repealed on June 30, 2011.

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Report Title:

Journalists and Newscasters; Disclosure

Description:

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Limits compelled disclosure of sources or unpublished information for journalists, newscasters and persons participating in collection or dissemination of news or information of substantial public interest. Establishes exceptions. (HB2557 CD1)