

Chapter 226

(House Bill 385)

AN ACT concerning

Privileged Communications – Dissemination of News or Information by Certain Persons

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

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

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

Article – Courts and Judicial Proceedings

9–112.

- (a) In this section, “news media” means:
- (1) Newspapers;
 - (2) Magazines;
 - (3) Journals;
 - (4) Press associations;
 - (5) News agencies;
 - (6) Wire services;
 - (7) Radio;
 - (8) Television; and

(9) Any printed, photographic, mechanical, or electronic means of disseminating news and information to the public.

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

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

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

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

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

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

(2) Any news or information procured by the person while employed by the news media **OR WHILE ACTING AS AN INDEPENDENT CONTRACTOR OF THE NEWS MEDIA**, in the course of pursuing a professional activity, or any news or information procured by the person while enrolled as a student, in the course of pursuing a scholastic activity or in conjunction with an activity sponsored, funded, managed, or supervised by school staff or faculty, for communication to the public but which is not so communicated, in whole or in part, including:

- (i) Notes;
- (ii) Outtakes;
- (iii) Photographs or photographic negatives;
- (iv) Video and sound tapes;
- (v) Film; and

(vi) Other data, irrespective of its nature, not itself disseminated in any manner to the public.

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

(i) The news or information is relevant to a significant legal issue before any judicial, legislative, or administrative body, or anybody that has the power to issue subpoenas;

(ii) The news or information could not, with due diligence, be obtained by any alternate means; and

(iii) There is an overriding public interest in disclosure.

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

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

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

Approved by the Governor, April 14, 2014.