

HOUSE BILL 1202

D3
HB 1140/05 – JUD

9lr0370

By: **Delegate Rosenberg**

Introduced and read first time: February 13, 2009

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Courts – Privilege – Disclosure – News or Information Sources**

3 FOR the purpose of extending the privilege against compelled disclosure of news or
4 information sources to certain persons; protecting certain persons from
5 disclosing the source of news or information; protecting certain persons from
6 disclosing news or information under certain conditions; repealing a certain
7 definition; defining a certain term; and generally relating to altering the scope
8 of a certain privilege against compelled disclosure of news or information
9 sources.

10 BY repealing and reenacting, with amendments,
11 Article – Courts and Judicial Proceedings
12 Section 9–112
13 Annotated Code of Maryland
14 (2006 Replacement Volume and 2008 Supplement)

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

17 **Article – Courts and Judicial Proceedings**

18 9–112.

19 (a) **(1)** In this section, [“news media” means:

20 (1) Newspapers;

21 (2) Magazines;

22 (3) Journals;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (4) Press associations;

2 (5) News agencies;

3 (6) Wire services;

4 (7) Radio;

5 (8) Television; and

6 (9) Any printed, photographic, mechanical, or electronic means of
7 disseminating news and information to the public.] **“COVERED PERSON” MEANS A**
8 **PERSON WHO:**

9 (I) **WITH THE PRIMARY INTENT TO INVESTIGATE EVENTS**
10 **AND PROCURE MATERIAL IN ORDER TO DISSEMINATE TO THE PUBLIC NEWS OR**
11 **INFORMATION CONCERNING LOCAL, NATIONAL, OR INTERNATIONAL EVENTS OR**
12 **OTHER MATTERS OF PUBLIC INTEREST, REGULARLY GATHERS, PREPARES,**
13 **COLLECTS, PHOTOGRAPHS, RECORDS, WRITES, EDITS, REPORTS, OR PUBLISHES**
14 **ON THOSE MATTERS BY:**

15 1. **CONDUCTING INTERVIEWS;**

16 2. **MAKING DIRECT OBSERVATION OF EVENTS; OR**

17 3. **COLLECTING, REVIEWING, OR ANALYZING**
18 **ORIGINAL WRITINGS, STATEMENTS, COMMUNICATIONS, REPORTS, MEMORANDA,**
19 **RECORDS, TRANSCRIPTS, DOCUMENTS, PHOTOGRAPHS, RECORDINGS, TAPES,**
20 **MATERIALS, DATA, OR OTHER INFORMATION IN PAPER, ELECTRONIC, OR OTHER**
21 **FORM; AND**

22 (II) **HAS THE INTENT DESCRIBED IN ITEM (I) OF THIS**
23 **PARAGRAPH AT THE INCEPTION OF THE NEWS-GATHERING PROCESS.**

24 (2) **“COVERED PERSON” INCLUDES A SUPERVISOR, EMPLOYER,**
25 **PARENT COMPANY, SUBSIDIARY, OR AN AFFILIATE OF A PERSON DESCRIBED IN**
26 **PARAGRAPH (1) OF THIS SUBSECTION.**

27 (3) **“COVERED PERSON” DOES NOT INCLUDE A PERSON WHO IS A**
28 **PUBLIC OFFICIAL.**

29 [(b) The provisions of this section apply to any person who is, or has been,
30 employed by the news media in any news gathering or news disseminating capacity.]

1 [(c) (B) Except as provided in subsection [(d) (C) of this section, any
2 judicial, legislative, or administrative body, or any body that has the power to issue
3 subpoenas may not compel any **COVERED** person [described in subsection (b) of this
4 section] to disclose:

5 (1) The source of any news or information procured by the **COVERED**
6 person [while employed by the news media], whether or not the source has been
7 promised confidentiality; or

8 (2) Any news or information procured by the **COVERED** person [while
9 employed by the news media, in the course of pursuing professional activities,] for
10 communication to the public but which is not so communicated, in whole or in part,
11 including:

12 (i) Notes;

13 (ii) Outtakes;

14 (iii) Photographs or photographic negatives;

15 (iv) Video and sound tapes;

16 (v) Film; and

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

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

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

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

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

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

31 [(e) (D) If any **COVERED** person [employed by the news media]
32 disseminates a source of any news or information, or any portion of the news or
33 information procured [while pursuing professional activities], the protection from

1 compelled disclosure under this section is not waived by the [individual] **COVERED**
2 **PERSON**.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2009.