

**Department of Legislative Services**  
Maryland General Assembly  
2010 Session

**FISCAL AND POLICY NOTE**  
**Revised**

House Bill 257  
Judiciary

(Delegate Rosenberg)

Judicial Proceedings

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**Evidence - Journalist's Testimonial Privileges - Student**

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This bill expands eligibility for the privileges against compelled disclosure of (1) the source of news or information, regardless of whether the source has been promised confidentiality; or (2) news or information not communicated to the public that was procured by a person while employed by the news media during the course of the person's professional activities. Under the bill, the privileges would extend to postsecondary students engaged in any news gathering or news disseminating capacity recognized by their schools as a scholastic activity or in conjunction with an activity sponsored, funded, managed, or supervised by school staff or faculty ("school-related activity"). The privilege applies to any news or information procured by the student in the course of pursuing the scholastic or school-related activity. If any such person disseminates a source of news information while pursuing a professional, scholastic, or school-related activity, the protection from compelled disclosure is not waived by the person. The bill applies to and only affects subpoenas issued on or after the bill's October 1, 2010 effective date.

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**Fiscal Summary**

**State Effect:** The bill is procedural in nature and does not affect governmental finances.

**Local Effect:** The bill is procedural in nature and does not affect local governmental finances.

**Small Business Effect:** None.

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## Analysis

**Current Law:** “News media” means:

- newspapers;
- magazines;
- journals;
- press associations;
- news agencies;
- wire services;
- radio;
- television; and
- any printed, photographic, mechanical, or electronic means of disseminating news and information to the public.

A judicial, legislative, or administrative body, or anybody that has the power to issue subpoenas, may not compel any person who is, or has been, employed by the news media in any news gathering or news disseminating capacity to disclose:

- the source of any news or information procured by the person while employed by the news media, whether or not the source has been promised confidentiality; or
- any news or information procured by the person while employed by the news media, in the course of pursuing professional activities, for communication to the public but which is not so communicated, in whole or in part.

A court may compel disclosure of news or information, if the court finds that the party seeking protected news or information has established by clear and convincing evidence that:

- 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;
- the news or information cannot, with due diligence, be obtained by any alternate means; and
- there is an overriding public interest in disclosure.

A court may not compel disclosure of the source of any news or information procured by a person eligible for the privilege.

If any person employed by the news media disseminates a source of any news or information, or any portion of the news or information procured while pursuing professional activities, the protection from compelled disclosure is not waived by the individual.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland Independent College and University Association, University System of Maryland, Department of Legislative Services

**Fiscal Note History:** First Reader - February 8, 2010  
mam/kdm Revised - House Third Reader - March 26, 2010

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