

Chapter 140

(House Bill 257)

AN ACT concerning

Evidence – Journalist’s Testimonial Privileges – Student

FOR the purpose of providing that certain testimonial privileges apply to a student engaged in a news gathering or news disseminating capacity under certain circumstances; making stylistic changes; providing for the application of this Act; and generally relating to certain testimonial privileges.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 9–112
Annotated Code of Maryland
(2006 Replacement Volume and 2009 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] **EMPLOYED** by the news media in any news gathering or news disseminating capacity; **OR**

(2) **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, in the course of pursuing A professional [activities] **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 [employed by the news media] **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 ~~a professional~~ **AN [activities] ACTIVITY OR A SCHOLASTIC ACTIVITY DESCRIBED IN SUBSECTION (B) OF THIS SECTION**, the protection from compelled disclosure under this section is not waived by the [individual] **PERSON**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any subpoena issued before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.