

FIRST REGULAR SESSION

HOUSE BILL NO. 858

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MCGAUGH.

2008L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 491, RSMo, by adding thereto one new section relating to the disclosure of news sources and information.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 491, RSMo, is amended by adding thereto one new section, to be known as section 491.003, to read as follows:

491.003. 1. For the purposes of this section, the following terms shall mean:

(1) "Covered person", any person or entity that disseminates information by print, broadcast, cable, satellite, mechanical, photographic, electronic, or other means, and that meets one of the following three criteria:

(a) Publishes, in either print or electronic form, a newspaper, book, magazine, pamphlet, or any other periodical; or

(b) Operates a radio or television broadcast station, a network of such stations, a cable system, a satellite carrier, or a channel or programming service for any such station, network, system, or carrier; or

(c) Operates a news agency or wire service, or a news or feature syndicate.

A "covered person" shall also include: a parent, subsidiary, or affiliate of any entity described in this subdivision, if such parent, subsidiary, or affiliate is engaged in news gathering or the dissemination of news and information; or an employee, contractor, or other person who gathers, edits, photographs, records, prepares, or disseminates news or information for any person or entity described in this subdivision;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 **(2) "Unpublished or nonbroadcast information", information not disseminated to**
18 **the public by the person from whom disclosure is sought nor by any entity described in this**
19 **section, including but not limited to, any notes, photographs, tapes, film, outtakes, or other**
20 **data, regardless of whether information based upon or related to such information has**
21 **been disseminated.**

22 **2. No covered person shall be required to disclose, in any federal or state**
23 **proceeding, including but not limited to any criminal, civil, or administrative proceeding,**
24 **the source of any published or unpublished, broadcast or nonbroadcast information**
25 **obtained in the gathering, receiving, or processing of information for any covered person.**
26 **No covered person shall be required to disclose, in any federal or state proceeding,**
27 **including but not limited to any criminal, civil, or administrative proceeding, any**
28 **unpublished or nonbroadcast information obtained or prepared in gathering, receiving,**
29 **or processing of information for any covered person.**

30 **3. If any person or entity claims the privilege provided by this section, the person**
31 **or entity seeking the information may move the circuit court of the county in which the**
32 **proceeding is located for an order divesting such privilege and ordering the disclosure of**
33 **the information sought. The motion shall allege the name of the person or entity claiming**
34 **the privilege, the entity with which that person or entity was connected at the time of**
35 **obtaining the information, the specific information sought and how it is relevant to the**
36 **proceedings, and the necessity of disclosure of the information.**

37 **4. In granting or denying divestiture of the privilege provided in this section, the**
38 **court shall consider the nature of the proceedings; the merits of the claim or defense; the**
39 **adequacy of any remedy otherwise available; the possibility of establishing by other means**
40 **that which it is alleged the source or information will tend to prove; the public interest in**
41 **protecting the confidentiality of any source as balanced against the public interest in**
42 **requiring disclosure; and the relevancy of the source or information.**

43 **5. Any order granting divestiture of the privilege provided by this section shall**
44 **issue only if the court finds in a written order or in recorded proceedings that:**

45 **(1) The information sought does not involve matters or details necessary in any**
46 **proceeding that are required to be kept secret under federal or state law, and that all other**
47 **available sources of information have been exhausted; and**

48 **(2) Disclosure of the information is essential to the protection of the public interest**
49 **involved in the proceedings.**

50 **6. If the court orders divestiture of the privilege provided by this section, it shall**
51 **also order the person to disclose the information it has determined must be disclosed,**
52 **subject to any protective conditions the court may deem necessary or appropriate.**

53 **7. The privilege provided by this section shall remain in effect during the pendency**
54 **of any appeal.**

✓