

CHAPTER 98-48

Senate Bill No. 150

An act relating to journalism; creating s. 90.5015, F.S.; creating a privilege for professional journalists to refuse to be a witness or to disclose specified information; providing definitions; authorizing courts to order disclosure of certain information; providing for non-waiver of the privilege; providing for an affidavit of authenticity; providing severability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 90.5015, Florida Statutes, is created to read:

90.5015 Journalist's privilege.—

(1) For purposes of this section, the term:

(a) "Professional journalist" means a person regularly engaged in collecting, photographing, recording, writing, editing, reporting, or publishing news, for gain or livelihood, who obtained the information sought while working as a salaried employee of, or independent contractor for, a newspaper, news journal, news agency, press association, wire service, radio or television station, network, or news magazine. Book authors and others who are not professional journalists, as defined in this paragraph, are not included in the provisions of this section.

(b) "News" means information of public concern relating to local, state-wide, national, or worldwide issues or events.

(2) A professional journalist has a qualified privilege not to be a witness concerning, and not to disclose the information, including the identity of any source, that the professional journalist has obtained while actively gathering news. This privilege applies only to information or eyewitness observations obtained within the normal scope of employment and does not apply to physical evidence, eyewitness observations, or visual or audio recording of crimes. A party seeking to overcome this privilege must make a clear and specific showing that:

(a) The information is relevant and material to unresolved issues that have been raised in the proceeding for which the information is sought;

(b) The information cannot be obtained from alternative sources; and

(c) A compelling interest exists for requiring disclosure of the information.

(3) A court shall order disclosure pursuant to subsection (2) only of that portion of the information for which the showing under subsection (2) has been made and shall support such order with clear and specific findings made after a hearing.

(4) A professional journalist does not waive the privilege by publishing or broadcasting information.

(5) This section must not be construed to limit any privilege or right provided to a professional journalist under law.

(6) Authentication: Photographs, diagrams, video recordings, audio recordings, computer records, or other business records maintained, disclosed, provided, or produced by a professional journalist, or by the employer or principal of a professional journalist, may be authenticated for admission in evidence upon a showing, by affidavit of the professional journalist, or other individual with personal knowledge, that the photograph, diagram, video recording, audio recording, computer record, or other business record is a true and accurate copy of the original, and that the copy truly and accurately reflects the observations and facts contained therein.

(7) If the affidavit of authenticity and accuracy, or other relevant factual circumstance, causes the court to have clear and convincing doubts as to the authenticity or accuracy of the proffered evidence, the court may decline to admit such evidence.

(8) If any provision of this section or its application to any particular person or circumstance is held invalid, that provision or its application is severable and does not affect the validity of other provisions or applications of this section.

Section 2. This act shall take effect upon becoming a law.

Approved by the Governor May 12, 1998.

Filed in Office Secretary of State May 12, 1998.