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# A BILL FOR AN ACT

RELATING TO EVIDENCE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Chapter 621, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§621-       Limitation on compellable testimony from  
5 journalists and newscasters; exceptions. (a) A journalist or  
6 newscaster presently or previously employed by or otherwise  
7 professionally associated with any newspaper or magazine or any  
8 digital version thereof operated by the same organization, news  
9 agency, press association, wire service, or radio or television  
10 transmission station or network, shall not be required by a  
11 legislative, executive, or judicial officer or body, or any  
12 other authority having the power to compel testimony or the  
13 production of evidence, to disclose, by subpoena or otherwise:

14           (1) The source, or information that could reasonably be  
15 expected to lead to the discovery of the identity of  
16 the source, of any published or unpublished  
17 information obtained by the person while so employed  
18 or professionally associated in the course of



1           gathering, receiving, or processing information for  
2           communication to the public; or

3           (2) Any unpublished information obtained or prepared by  
4           the person while so employed or professionally  
5           associated in the course of gathering, receiving, or  
6           processing information for communication to the  
7           public.

8           (b) The limitation on compellable testimony established by  
9           this section may also be claimed by and afforded to any  
10          individual who can demonstrate by clear and convincing evidence  
11          that:

12          (1) The individual has regularly and materially  
13          participated in the reporting or publishing of news or  
14          information of substantial public interest for the  
15          purpose of dissemination to the general public by  
16          means of tangible or electronic media;

17          (2) The position of the individual is materially similar  
18          or identical to that of a journalist or newscaster,  
19          taking into account the method of dissemination;

20          (3) The interest of the individual in protecting the  
21          sources and unpublished information under subsection



- 1           (a) is materially similar to the interest of the  
2           individuals referenced under subsection (a); and
- 3       (4) The public interest is served by affording the  
4           protections of this section in a specific circumstance  
5           under consideration.
- 6       (c) This section shall not apply if:
- 7       (1) Probable cause exists to believe that the person  
8           claiming the privilege has committed, is committing,  
9           or is about to commit a crime;
- 10       (2) The person claiming the privilege has observed the  
11           alleged commission of a crime;
- 12       (3) With respect to the information protected under  
13           subsection (a)(1), the information sought to be  
14           disclosed is vital to the investigation or prosecution  
15           of a homicide or a class A felony and it can be shown  
16           by clear and convincing evidence that the source or  
17           information sought is:
- 18           (A) Unavailable, despite exhaustion of reasonable  
19           alternative sources;
- 20           (B) Noncumulative; and
- 21           (C) Necessary and relevant to the claim or defense  
22           asserted;



1       (4) With respect to the information protected under  
2       subsection (a)(1) or (a)(2), the information sought to  
3       be disclosed is important to help prevent imminent  
4       harm to life or public safety; or

5       (5) With respect to the information protected under  
6       subsection (a)(2), the information sought to be  
7       disclosed is material to the investigation or  
8       prosecution of a felony and it can be shown by clear  
9       and convincing evidence that the source or information  
10       sought is:

11       (A) Unavailable, despite exhaustion of reasonable  
12       alternative sources;

13       (B) Noncumulative; and

14       (C) Necessary and relevant to the claim or defense  
15       asserted.

16       (d) No fine or imprisonment shall be imposed against a  
17       person claiming the privilege pursuant to this section for  
18       refusal to disclose information privileged pursuant to this  
19       section."

20       SECTION 2. New statutory material is underscored.

21       SECTION 3. This Act shall take effect on July 1, 2050.



**Report Title:**

Journalists and Newscasters; Disclosure

**Description:**

Limits compelled disclosure of sources or unpublished information for journalists, newscasters and persons participating in collection or dissemination of news or information of substantial public interest. Establishes exceptions. Eff. 7/1/2050. (SD1)

