

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 604
By: Ellis
Jurisprudence
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Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently, reporters rely on the ability to assure confidentiality to sources in order to deliver news to the public, and this ability is fundamental to delivering news on highly contentious matters of broad public interest. Without the promise of confidentiality, many sources would not provide information to reporters and the public would suffer from the resulting lack of information.

C.S.S.B. 604 enacts a shield law providing Texas journalists a qualified privilege against the compelled disclosure of confidential and nonconfidential information and sources. By adopting this measure, Texas would join 31 other states and the District of Columbia that safeguard the free flow of information to the public by protecting the right of journalists to gather and communicate the news without unwarranted intrusion. Although the bill creates a qualified privilege for journalists, its net effect will be to increase information available to Texas citizens on matters of significant public interest.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 22, Civil Practice and Remedies Code, by adding Section 22.012, as follows:

Sec. 22.012. JOURNALIST'S TESTIMONIAL PRIVILEGE. (a) Defines "journalist," "news medium," "official proceeding," and "public servant."

(b) Provides that a journalist has a qualified privilege and may not be compelled to disclose in an official proceeding any confidential or nonconfidential information, document, or item legally obtained or prepared while acting as a journalist, except as provided by Subsections (c) or (e).

(c) Authorizes a journalist to be compelled to disclose any information, document, or item obtained while acting as a journalist if the person seeking the testimony or production establishes by a preponderance of the evidence that the testimony or production sought meets certain requirements.

(d) Authorizes an order to compel testimony or production as to which a journalist has asserted a privilege to be issued only after notice to the journalist and a hearing. Requires the order to include clear and specific findings as to the showing made by the person seeking the testimony or production.

(e) Provides that a journalist, notwithstanding Subsection (b), does not have privilege against disclosure of any information, document, or item obtained as a result of the journalist's eyewitness observation of or participation in criminal or tortious conduct, including any physical evidence or visual or audio recording of the observed conduct.

SECTION 2. Amends Chapter 38, Code of Criminal Procedure, by adding Article 38.11, as follows:

Art. 38.11. JOURNALIST'S TESTIMONIAL PRIVILEGE. Provides that Section 22.012, Civil Practice and Remedies Code, applies to a criminal proceeding.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2005.