

FIRST REGULAR SESSION

# HOUSE BILL NO. 76

## 99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE MCGAUGH.

0580H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

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

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*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;**

**(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17           **(2) "Unpublished or nonbroadcast information", information not disseminated to**  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 shall 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.**

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