

SECOND REGULAR SESSION

# SENATE BILL NO. 1165

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CROWELL.

Read 1st time February 20, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

5198S.011

## 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;

(2) "Unpublished or non-broadcast information", information not

22 disseminated to the public by the person from whom disclosure is  
23 sought nor by any entity described in this section, including but not  
24 limited to, any notes, photographs, tapes, film, outtakes, or other data,  
25 regardless of whether information based upon or related to such  
26 information has been disseminated.

27       2. No covered person shall be required to disclose, in any federal  
28 or state proceeding, including but not limited to any criminal, civil, or  
29 administrative proceeding, the source of any published or unpublished,  
30 broadcast or non-broadcast information obtained in the gathering,  
31 receiving, or processing of information for any covered person. No  
32 covered person shall be required to disclose, in any federal or state  
33 proceeding, including but not limited to any criminal, civil, or  
34 administrative proceeding, any unpublished or non-broadcast  
35 information obtained or prepared in gathering, receiving, or processing  
36 of information for any covered person.

37       3. If any person or entity claims the privilege provided by this  
38 section, the person or entity seeking the information may move the  
39 circuit court of the county in which the proceeding is located for an  
40 order divesting such privilege and ordering the disclosure of the  
41 information sought. The motion shall allege the name of the person or  
42 entity claiming the privilege, the entity with which that person or  
43 entity was connected at the time of obtaining the information, the  
44 specific information sought and how it is relevant to the proceedings,  
45 and the necessity of disclosure of the information.

46       4. In granting or denying divestiture of the privilege provided  
47 in this section, the court shall consider the nature of the proceedings;  
48 the merits of the claim or defense; the adequacy of any remedy  
49 otherwise available; the possibility of establishing by other means that  
50 which it is alleged the source or information will tend to prove; the  
51 public interest in protecting the confidentiality of any source as  
52 balanced against the public interest in requiring disclosure; and the  
53 relevancy of the source or information.

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

57       (1) The information sought does not involve matters or details  
58 necessary in any proceeding that are required to be kept secret under

59 **federal or state law, and that all other available sources of information**  
60 **have been exhausted; and**

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

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

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

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