

SENATE No. 201

By Mr. Sisitsky, a petition (accompanied by bill, Senate, No. 201) of Alan D. Sisitsky, Chester G. Atkins and David J. Mofenson for legislation to establish the confidential information act relative to journalism. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Four.

AN ACT ESTABLISHING THE CONFIDENTIAL INFORMATION ACT
RELATIVE TO JOURNALISM.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 The General Laws are hereby amended by inserting after
2 chapter 233, the following chapter: —

Chapter 233A

Confidential Information Act

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5 *Section 1.* The following definitions shall apply as used in
6 this chapter:

7 "Professional journalist," shall mean one who, for gain or
8 livelihood, is engaged in the gathering, preparation, presenta-
9 tion or editing of news for a newspaper, journal, press associa-
10 tion, wire service, or radio or television station.

11 "News," shall mean written, oral or pictorial information or
12 communication concerning local, national or worldwide events
13 or other matters of public concern or public interest or affect-
14 ing the public welfare.

15 "Newspaper," shall mean a paper that is printed and dis-
16 tributed ordinarily not less frequently than once a week, and
17 has been so printed and distributed for at least one year, and
18 that has at least a twenty-five per cent yearly average of
19 news-editorial contents such as news, articles of opinion (as
20 editorials), features, advertising or other matter regarded as

21 current interest, and that has a general circulation and that
22 must be formed of printed sheets.

23 "Journal," shall mean a publication containing news which
24 is published and distributed periodically, and has been so (pub-
25 lished and distributed) for at least one year and must be
26 formed of printed sheets.

27 "Press Association," shall mean an association of newspap-
28 ers and/or magazines formed to gather and distribute news
29 and journalistic information to its members.

30 "New Agency," shall mean a commercial organization that
31 collects and supplies news to subscribing newspapers, maga-
32 zines, periodicals and news broadcasters.

33 "Wire Service," shall mean a news agency that sends out
34 syndicated news copy by wire to subscribing newspapers, mag-
35 azines, periodicals or news broadcasters.

36 *Section 2.* Except as provided in section four, no profes-
37 sional journalist shall be required by any court, grand jury,
38 agency, department, or commission of the Commonwealth of
39 Massachusetts or by either the House of Representatives or the
40 Senate, or by any committee of the General Court to disclose
41 any confidential information received or obtained by him in
42 his capacity as a reporter, editor, commentator, writer, corre-
43 spondent, announcer, or other person directly engaged in the
44 gathering or presentation of news for any newspaper, journal,
45 press association, news agency, wire service, or radio or tele-
46 vision station.

47 *Section 3.* Except as provided in section four, no profes-
48 sional journalist shall be required by any court, grand jury,
49 agency, department, or commission of the Commonwealth of
50 Massachusetts or by either the House of Representatives or the
51 Senate, or by any committee of the General Court to disclose
52 the source of any confidential information received or obtained
53 by him in his capacity as a reporter, editor, commentator,
54 writer, correspondent, announcer, or other person directly
55 engaged in the gathering or presentation of news for any
56 newspaper, journal, press association, news agency, wire ser-
57 vice, or radio or television station.

58 *Section 4. (a)* The privilege conferred by section two shall

59 not apply to any information which has at any time been
60 published, broadcast, or otherwise made public by the person
61 claiming the privilege.

62 (b) The privilege conferred by section three shall not apply
63 (1) to the source of any allegedly defamatory information in
64 any case where the defendant, in a civil action for defamation,
65 asserts a defense based on the source of such information; or
66 (2) to the source of any information concerning the details of
67 any grand jury or other proceeding which was required to be
68 secret under the laws of the Commonwealth.

69 (c) In any case where a person claims a privilege conferred
70 by sections two or three, the person seeking the information or
71 the source of the information may apply to a superior court of
72 the commonwealth for an order divesting the privilege. Such
73 application shall be made to the superior court in the district
74 wherein the hearing, action or other proceeding in which the
75 information is sought is pending, except that where the privi-
76 lege is invoked before a superior court the application shall be
77 made to any other superior court. The order shall be granted
78 only if the court, after hearing the parties, determines that
79 there is substantial evidence that disclosure of the information
80 or of the source of the information is clearly required to
81 permit a criminal prosecution for the commission of a specific
82 felony or to prevent a threat to human life. Any such order
83 shall be appealable under section ninety-six of chapter two
84 hundred and thirty-one.

