

salary differential permitted by this subdivision, during the period of his assignment as chief pilot.

Approved May 24, 1973.

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## CHAPTER 735—H.F.No.624

[Coded]

*An act relating to the free flow of information, the protection of sources of information of the news media, and prohibiting disclosure of sources of information.*

Be it enacted by the Legislature of the State of Minnesota:

Section 1. [595.021] **NEWS MEDIA; PROTECTION OF SOURCES; CITATION.** Sections 1 to 4 may be cited as the Minnesota free flow of information act.

Sec. 2. [595.022] **PUBLIC POLICY.** In order to protect the public interest and the free flow of information, the news media should have the benefit of a substantial privilege not to reveal sources of information or to disclose unpublished information. To this end; the freedom of press requires protection of the confidential relationship between the news gatherer and the source of information. The purpose of this act is to insure and perpetuate, consistent with the public interest, the confidential relationship between the news media and its sources.

Sec. 3. [595.023] **DISCLOSURE PROHIBITED.** No person who is or has been directly engaged in the gathering, procuring, compiling, editing, or publishing of information for the purpose of transmission, dissemination or publication to the public shall be required by any court, grand jury, agency, department or branch of the state, or any of its political subdivisions or other public body, or by either house of the legislature or any committee, officer, member, or employee thereof, to disclose in any proceeding the person or means from or through which information was obtained, or to disclose any unpublished information procured by him in the course of his work or any of his notes, memoranda, recording tapes, film or other reportorial data which would tend to identify the person or means through which the information was obtained.

Sec. 4. [595.024] **EXCEPTION AND PROCEDURE.** Subdivision 1. A person seeking disclosure may apply to the district court of the county where the person employed by or associated with a

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news media resides, has his principal place of business or where the proceeding in which the information sought is pending.

Subd. 2. The application shall be granted only if the court determines after hearing the parties that the person making application, by clear and convincing evidence, has met all three of the following conditions:

(1) that there is probable cause to believe that the source has information clearly relevant to a specific violation of the law other than a misdemeanor,

(2) that the information cannot be obtained by any alternative means or remedy less destructive of first amendment rights, and

(3) that there is a compelling and overriding interest requiring the disclosure of the information where the disclosure is necessary to prevent injustice.

Subd. 3. The district court shall consider the nature of the proceedings, the merits of the claims and defenses, the adequacies of alternative remedies, the relevancy of the information sought, and the possibility of establishing by other means that which the source is expected or may tend to prove. The court shall make its appropriate order after making findings of fact, which order may be appealed directly to the supreme court according to the appropriate rule of appellate procedure. The order is stayed and nondisclosure shall remain in full force and effect during the pendency of the appeal.

Sec. 5. [595.025] **DEFAMATION.** Subdivision 1. The prohibition of disclosure provided in section 3 shall not apply in any defamation action where the person seeking disclosure can demonstrate that the identity of the source will lead to relevant evidence on the issue of actual malice.

Subd. 2. Notwithstanding the provisions of subdivision 1 of this section, the identity of the source of information shall not be ordered disclosed unless the following conditions are met:

(a) that there is probable cause to believe that the source has information clearly relevant to the issue of defamation;

(b) that the information cannot be obtained by any alternative means or remedy less destructive of First Amendment rights.

Subd. 3. The court shall make its order on the issue of disclosure after making findings of fact, which order may be appealed directly to the supreme court according to the rules of appellate procedure. During the appeal the order is stayed and nondisclosure shall remain in full force and effect.

Approved May 24, 1973.

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