

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill No. 441, Page 4, Section 173.1551, Line 43,
2 by inserting after all of said line the following:

3 "491.003. 1. For the purposes of this section, the following terms shall mean:

4 (1) "Covered person", any person or entity that disseminates information by print,
5 broadcast, cable, satellite, mechanical, photographic, electronic, or other means, and that meets one
6 of the following three criteria:

7 (a) Publishes, in either print or electronic form, a newspaper, book, magazine, pamphlet, or
8 any other periodical;

9 (b) Operates a radio or television broadcast station, a network of such stations, a cable
10 system, a satellite carrier, or a channel or programming service for any such station, network,
11 system, or carrier; or

12 (c) Operates a news agency or wire service or a news or feature syndicate.

13
14 A "covered person" shall also include a parent, subsidiary, or affiliate of any entity described in this
15 subdivision, if such parent, subsidiary, or affiliate is engaged in news gathering or the dissemination
16 of news and information; or an employee, contractor, or other person who gathers, edits,
17 photographs, records, prepares, or disseminates news or information for any person or entity
18 described in this subdivision;

19 (2) "Unpublished or nonbroadcast information", information not disseminated to the public
20 by the person from whom disclosure is sought nor by any entity described in this section including,
21 but not limited to, any notes, photographs, tapes, film, outtakes, or other data, regardless of whether
22 information based upon or related to such information has been disseminated.

23 2. No covered person shall be required to disclose, in any federal or state proceeding
24 including, but not limited to, any criminal, civil, or administrative proceeding, the source of any
25 published or unpublished broadcast or nonbroadcast information obtained in the gathering,
26 receiving, or processing of information for any covered person. No covered person shall be
27 required to disclose, in any federal or state proceeding including, but not limited to, any criminal,
28 civil, or administrative proceeding, any unpublished or nonbroadcast information obtained or
29 prepared in gathering, receiving, or processing of information for any covered person.

30 3. If any person or entity claims the privilege provided by this section, the person or entity
31 seeking the information may move the circuit court of the county in which the proceeding is located
32 for an order divesting such privilege and ordering the disclosure of the information sought. The
33 motion shall allege the name of the person or entity claiming the privilege, the entity with which
34 that person or entity was connected at the time of obtaining the information, the specific information
35 sought and how it is relevant to the proceedings, and the necessity of disclosure of the information.

36 4. In granting or denying divestiture of the privilege provided in this section, the court shall

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1 consider the nature of the proceedings, the merits of the claim or defense, the adequacy of any
2 remedy otherwise available, the possibility of establishing by other means that which it is alleged
3 the source or information will tend to prove, the public interest in protecting the confidentiality of
4 any source as balanced against the public interest in requiring disclosure, and the relevancy of the
5 source or information.

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

8 (1) The information sought does not involve matters or details necessary in any proceeding
9 that are required to be kept secret under federal or state law, and that all other available sources of
10 information have been exhausted; and

11 (2) Disclosure of the information is essential to the protection of the public interest involved
12 in the proceedings.

13 6. If the court orders divestiture of the privilege provided by this section, it shall also order
14 the person to disclose the information it has determined shall be disclosed, subject to any protective
15 conditions the court may deem necessary or appropriate.

16 7. The privilege provided by this section shall remain in effect during the pendency of any
17 appeal."; and

18
19 Further amend said bill by amending the title, enacting clause, and intersectional references
20 accordingly.