

State of South Dakota

NINETY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2019

508B0549

HOUSE JUDICIARY ENGROSSED NO. **HB 1074** 2/6/2019

Introduced by: Representatives Hansen, Beal, Gosch, Johns, Johnson (David), Peterson (Kent), Qualm, Reed, Ring, Schoenfish, and Smith (Jamie) and Senators Schoenbeck, Greenfield (Brock), Kennedy, Nesiba, Novstrup, Rusch, Russell, Smith (VJ), Wismer, and Youngberg

1 FOR AN ACT ENTITLED, An Act to provide a privilege for journalists and newscasters
2 regarding refusal to disclose information.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 19-2 be amended by adding a NEW SECTION to read:

5 Terms used in this Act mean:

6 (1) "Journalist," any person who, for pay, is engaged in gathering, preparing, collecting,
7 writing, editing, filming, taping, or photographing news for publication in or with a
8 newspaper, magazine, news agency, press association, wire service, or other
9 professional medium or agency that has as one of its principal functions the
10 processing and researching of news intended for publication. The term includes any
11 person who is an employee of, or who is otherwise affiliated for pay with, the
12 medium or agency and any student enrolled at an accredited university, college, or
13 technical school in this state who otherwise meets the requirements of this



1 subdivision;

2 (2) "Magazine," any publication containing news that is published and distributed
3 periodically for at least one year, has a paid circulation, and has been entered with the
4 United States Postal Service as periodicals-class material;

5 (3) "News," any written, oral, pictorial, photographic, or electronically recorded
6 information or communication concerning local, national, or worldwide events or
7 other matters of public concern or public interest or affecting the public welfare;

8 (4) "News agency," any organization that supplies news to subscribing newspapers,
9 magazines, periodicals, and news broadcasters;

10 (5) "Newscaster," any person who, for pay, is engaged in gathering, preparing, collecting,
11 writing, editing, filming, taping, or broadcasting news on a radio or television station
12 licensed by the Federal Communications Commission. The term includes any student
13 enrolled at an accredited university, college, or technical school in this state who
14 meets the requirements of this subdivision;

15 (6) "Newspaper," any legal newspaper as defined under §§ 17-2-2.1 to 17-2-2.5,
16 inclusive;

17 (7) "Press association," any association of newspapers or magazines formed to gather
18 and distribute news to its members;

19 (8) "Wire service," any news agency that provides syndicated news copy by wire to
20 subscribing newspapers, magazines, periodicals, or news broadcasters.

21 Section 2. That chapter 19-2 be amended by adding a NEW SECTION to read:

22 A journalist or newscaster who is or has previously been employed by or otherwise
23 associated with any newspaper, magazine, news agency, press association, wire service, radio
24 or television transmission station or network has a privilege to refuse to disclose, and to prevent

1 any other person from disclosing, any information obtained or received in confidence, or the
2 identity of the source of the information, if the journalist or newscaster:

3 (1) Obtains or receives the information, with or without solicitation, in the course of
4 gathering or obtaining news for publication in a newspaper, magazine, or for
5 broadcast by a radio or television transmission station or network; and

6 (2) Is employed by or otherwise associated in a news-gathering capacity with the
7 newspaper, magazine, or radio or television transmission station or network.

8 Section 3. That chapter 19-2 be amended by adding a NEW SECTION to read:

9 Notwithstanding any other law, a court in connection with any civil or criminal proceeding,
10 the Legislature, any agency or other public body in the state having the power of contempt, may
11 not hold in contempt any journalist or newscaster for asserting the privilege under section 2 of
12 this Act. A grand jury may not request any court to hold any journalist or newscaster in
13 contempt for asserting the privilege under section 2 of this Act.

14 Section 4. That chapter 19-2 be amended by adding a NEW SECTION to read:

15 The privilege asserted in accordance with section 2 of this Act applies to any information
16 the journalist or newscaster refuses to disclose, notwithstanding whether:

17 (1) A court, the Legislature, or any agency or public body in the state deems the
18 information to be highly relevant to a particular proceeding or inquiry; or

19 (2) The information is published or otherwise publicly released.

20 Section 5. That chapter 19-2 be amended by adding a NEW SECTION to read:

21 Any information obtained in violation of section 2 of this Act is inadmissible in any action,
22 proceeding, or hearing before the Legislature, any court, or any other agency or public body in
23 the state.

24 Section 6. That chapter 19-2 be amended by adding a NEW SECTION to read:

1 No fine or term of imprisonment may be imposed upon any journalist or newscaster for
2 asserting a privilege in accordance with section 2 of this Act.

3 Section 7. That chapter 19-2 be amended by adding a NEW SECTION to read:

4 The privilege asserted in accordance with section 2 of this Act applies to any supervisor or
5 employer having authority over the journalist or newscaster, including any faculty advisor,
6 educational institution, newspaper, magazine, or television or transmission station or network
7 that is associated with an accredited college, university, or technical school in this state.