

HOUSE No. 4638

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, October 23, 2025.

The committee on the Judiciary, to whom was referred the petition (accompanied by bill, House, No. 1738) of Richard M. Haggerty and others relative to government entities compelling certain service providers to provide testimony or documents on behalf of a covered journalists, reports recommending that the accompanying bill (House, No. 4638) ought to pass.

For the committee,

MICHAEL S. DAY.

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**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

An Act relative to the free flow of information.

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

1 SECTION 1. Chapter 233 of the General Laws, as appearing in the 2022 Official Edition,
2 is hereby amended by inserting after section 200 the following section:-

3 Section 20P.

4 (a) For the purposes of this section, the following terms shall have the following
5 meanings unless the context clearly requires otherwise:

6 “Journalist”, a person regularly engaged in the business of gathering, preparing,
7 collecting, photographing, recording, writing, editing, reporting, investigating or publishing news
8 or information concerning local, national, or international events or other matters of public
9 interest for dissemination to the public; provided, however, that “journalist” shall not include any
10 governmental entity or individual employed thereby engaged in official governmental
11 information activities.

12 “Investigative body”, a court, grand jury, agency, board, department or commission of
13 the commonwealth.

14 “Journalism”, the business of gathering, preparing, collecting, photographing, recording,
15 writing, editing, reporting, investigating or publishing news or information concerning local,
16 national, or international events or other matters of public interest for dissemination to the public.

17 “Unpublished information”, notes, outtakes, photographs, tapes or other information of
18 whatever sort not itself disseminated to the public by the journalist through a medium of
19 communication, whether or not published information based upon or related to such material has
20 been disseminated.

21 (b) In a state proceeding before an investigative body, a journalist shall have the privilege
22 of refusing to disclose, and to prevent a third party from disclosing on their behalf, the source of
23 any published or unpublished information obtained using journalism for any medium of
24 communication to the public unless a court of competent jurisdiction finds that disclosure is: (i)
25 necessary to protect national security; (ii) necessary to ensure a defendant’s right to a fair trial
26 and cannot reasonably be obtained by alternate testimony; or (iii) reasonably likely to prevent
27 imminent violence, bodily harm, or death.

28 (c) In a state proceeding before an investigative body, a journalist shall have the privilege
29 of refusing to disclose, and to prevent a third party from disclosing on their behalf, unpublished
30 information obtained or prepared using journalism for any medium of communication to the
31 public unless a court of competent jurisdiction, upon a showing that the damage from disclosure
32 to the free flow of information is more than speculative or theoretical, finds that the public’s

33 interest in every person's evidence outweighs the public's interest in the free flow of
34 information.

35 (d) A claim of privilege conferred by this section may be contested by a petition to the
36 superior court for an order divesting the privilege. Upon receipt of the petition the court must
37 notice and hear from both parties and produce a written order. An order of disclosure by the
38 superior court shall be subject to review by the supreme judicial court and during the pendency
39 of the appeal the privilege shall remain in full force and effect.

40 (e) Any privilege conferred by this section shall not apply if: (i) the journalist directed or
41 participated in criminal activity to procure the information; or (ii) the information is from a
42 disclosed source and has already been made public.