

1 HB BILL NO. 116
 2 INTRODUCED BY Bradley Mulloy
 3 Stigiquilla Ellis

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
 5 93-601-2 AND 93-701-4, R.C.M. 1947, TO EXTEND REPORTER'S
 6 PRIVILEGE TO INFORMATION OBTAINED FOR COMMUNICATION TO THE
 7 PUBLIC."

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 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 93-601-2, R.C.M. 1947, is amended
 11 to read as follows:

12 "93-601-2. Disclosure of information and source of
 13 information -- when not required. (1) No person without his
 14 consent no person engaged, or who was so engaged at the time
 15 the information sought was procured, in the work of, or
 16 connected with or employed by any newspaper, ~~or any press~~
 17 ~~association or any news service,~~ radio broadcasting
 18 station, ~~or any television station, or community antenna~~
 19 television service for the purpose of gathering, procuring
 20 ~~compiling, writing, editing, or disseminating, publishing,~~
 21 ~~broadcasting or televising news shall may be examined as to~~
 22 or may be required to disclose, any information obtained or
 23 prepared or the source of any that information procured or
 24 ~~obtained by such person in the course of his employment~~ in
 25 any legal proceeding if the information was gathered,

1 ~~received, or processed in the course of his employment~~ trial
 2 ~~or investigation before any court, grand jury or petit jury,~~
 3 ~~or any officer thereof, before the presiding officer of any~~
 4 ~~tribunal, or his agent or agents, or before any commission,~~
 5 ~~department, division or bureau of the state, or before any~~
 6 ~~county or municipal body, officer or committee thereof.~~

7 (2) A person engaged as in subsection (1) may not be
 8 adjudged in contempt by a judicial, legislative,
 9 administrative, or any other body having the power to issue
 10 subpoenas for refusing to disclose the source of any
 11 information or for refusing to disclose any information
 12 obtained or prepared in gathering, receiving, or processing
 13 information in the course of his employment.

14 (3) Dissemination in whole or in part does not
 15 constitute a waiver of provisions of subsection (1) or (2),
 16 or both."

17 Section 2. Section 93-701-4, R.C.M. 1947, is amended
 18 to read as follows:

19 "93-701-4. Persons in certain relations cannot be
 20 examined. There are particular relations in which it is the
 21 policy of the law to encourage confidence and to preserve it
 22 inviolate; therefore, a person cannot be examined as a
 23 witness in the following cases:

24 1. A husband cannot be examined for or against his
 25 wife without her consent; nor a wife for or against her

1 husband without his consent; nor can either, during the
2 marriage or afterward, be, without the consent of the other,
3 examined as to any communication made by one to the other
4 during the marriage; but this exception does not apply to a
5 civil action or proceeding by one against the other, nor to
6 a criminal action or proceeding for a crime committed by one
7 against the other.

8 2. An attorney cannot, without the consent of his
9 client, be examined as to any communication made by the
10 client to him, or his advice given thereon in the course of
11 professional employment.

12 3. A clergyman or priest cannot, without the consent
13 of the person making the confession, be examined as to any
14 confession made to him in his professional character in the
15 course of discipline enjoined by the church to which he
16 belongs.

17 4. A licensed physician or surgeon cannot, without the
18 consent of his patient, be examined in a civil action as to
19 any information acquired in attending the patient, which was
20 necessary to enable him to prescribe or act for the patient.

21 5. A public officer cannot be examined as to
22 communications made to him in official confidence, when the
23 public interests would suffer by the disclosure.

24 6. Any person engaged in teaching psychology in any
25 school, or who acting as such is engaged in the study and

1 observation of child mentality, shall not without the
2 consent of the parent or guardian of such child being so
3 taught or observed testify in any civil action as to any
4 information so obtained.

5 7. A counselor, psychologist, nurse, or teacher,
6 employed by any educational institution, cannot be examined
7 as to communications made to him in confidence by a duly
8 registered student of such institution; provided, however,
9 that this provision shall not apply where consent has been
10 given by the student, if not a minor, or if he is a minor,
11 by the student and his parent or legal guardian.

12 ~~8. A publisher, editor, reporter or other person~~
13 ~~connected with or employed upon a newspaper or by a press~~
14 ~~association or wire service, or any person who has been so~~
15 ~~connected or employed, cannot without his consent be~~
16 ~~examined as to any communication made to him in confidence~~
17 ~~for the purpose of proper publication nor shall he be~~
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19 ~~administrative body for refusing to disclose the source of~~
20 ~~any information procured while so connected or employed for~~
21 ~~publication and published in a newspaper.~~

22 ~~Nor can a radio or television news reporter or other~~
23 ~~person connected with or employed by a radio or television~~
24 ~~station, or any person who has been so connected or~~
25 ~~employed, without his consent be examined as to any~~

1 ~~communication--made--to-him-in-confidence-for-the-purpose-of~~
2 ~~proper-publication-nor-shall-he-be-so-adjudged--in--contempt~~
3 ~~for--refusing--to--disclose--the--sources--of--any--information~~
4 ~~procured-while-so-connected-or-employed--for--news--or--news~~
5 ~~commentary-purposes-on-radio-or-television.~~

6 98. A speech pathologist or audiologist cannot,
7 without the consent of his client, be examined in a civil
8 action as to any communication made by the client to him.*

-End-

Objection Raised to Adverse Committee Report

1 H.B. BILL NO. 116
2 INTRODUCED BY Bradley Nulley
3 Steigmeiller Ellis

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17 association, or any news service, radio broadcasting
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19 television service for the purpose of gathering, procuring,
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24 obtained by such person in the course of his employment, in
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2 or investigation before any court, grand jury or petit jury,
3 or any officer thereof, before the presiding officer of any
4 tribunal, or his agent or agents, or before any commission,
5 department, division or bureau of the state, or before any
6 county or municipal body, officer or committee thereof.

7 (2) A person engaged as in subsection (1) may not be
8 adjudged in contempt by a judicial, legislative,
9 administrative, or any other body having the power to issue
10 subpoenas for refusing to disclose the source of any
11 information or for refusing to disclose any information
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16 or both."

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18 to read as follows:

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20 examined. There are particular relations in which it is the
21 policy of the law to encourage confidence and to preserve it
22 inviolate; therefore, a person cannot be examined as a
23 witness in the following cases:

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1 husband without his consent; nor can either, during the
2 marriage or afterward, be, without the consent of the other,
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22 communications made to him in official confidence, when the
23 public interests would suffer by the disclosure.

24 6. Any person engaged in teaching psychology in any
25 school, or who acting as such is engaged in the study and

1 observation of child mentality, shall not without the
2 consent of the parent or guardian of such child being so
3 taught or observed testify in any civil action as to any
4 information so obtained.

5 7. A counselor, psychologist, nurse, or teacher,
6 employed by any educational institution, cannot be examined
7 as to communications made to him in confidence by a duly
8 registered student of such institution; provided, however,
9 that this provision shall not apply where consent has been
10 given by the student, if not a minor, or if he is a minor,
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6 9B. A speech pathologist or audiologist cannot,
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8 action as to any communication made by the client to him."

-End-

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 19 television service for the purpose of gathering, procuring,
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 3 or any officer thereof, before the presiding officer of any
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-End-

HOUSE OF REPRESENTATIVES

Date: February 21, 1975

HOUSE COMMITTEE ON LOCAL GOVERNMENT AMENDMENT TO SENATE BILL 116

1. Amend page 6, section 1, subsection (4)(c), lines 10 and 11.

Following: "in the"

Strike: "state COUNTY, CITY, OR TOWN AS SET FORTH IN SECTION
16-2618(1)"

Insert: "state"

March 16, 1977

SENATE
STANDING COMMITTEE REPORT
Judiciary Committee

That House Bill No. 116, third reading, as follows:

1. Amend page 2, section 1, line 14.

Following: "Dissemination"

Insert: ", except as provided in subsection (4),"

2. Amend page 2, section 1, line 16.

Following: line 16

Insert: "(4) If the person claiming the privilege voluntarily offers to testify, with or without having been subpoenaed, before a judicial, legislative, administrative, or other body having the power to issue subpoenas, he waives the provisions of subsections (1) and (2)."

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14 (3) Dissemination, EXCEPT AS PROVIDED IN SUBSECTION
 15 (4), in whole or in part does not constitute a waiver of
 16 provisions of subsection (1) or (2), or both.

17 (4) IF THE PERSON CLAIMING THE PRIVILEGE VOLUNTARILY
 18 OFFERS TO TESTIFY, WITH OR WITHOUT HAVING BEEN SUBPOENAED,
 19 BEFORE A JUDICIAL, LEGISLATIVE, ADMINISTRATIVE, OR OTHER
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-End-