1 2 INTRODUCED BY Bradley Als 3. Staliquilles Ellis A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 4 93-601-2 AND 93-701-4, R.C.M. 1947, TO EXTEND REPORTER'S 5 PRIVILEGE TO INFORMATION OBTAINED FOR COMMUNICATION TO THE ٨ PUBLIC." 7 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 9 Section 1. Section 93-601-2, R.C.N. 1947, is amended 10 to read as follows: 11 "93-601-2. Disclosure of information and source of 12 13 information -- when not required. (1) No-persons Without his 14 consent no person engaged, or who was so engaged at the time the information sought was procured, in the work of or 15 connected with or employed by any newspapers or--any--press 15 associationy---or---ony news\_services radio broadcasting 17 station, or-any television station; or compunity antenna 18 television service for the purpose of gathering, procuring, 1.7 compilingy writing, editing, or disseminatingy--publishingy 20 broadcasting-or-televising news shall may be examined as to: 21 or may be required to discloses any information obtained or 22 prepared or the source of any that information procured-or 23 obtained-by-such-person-in-the-course-of-his-employmenty in 24 any legal proceeding, if the information was wathereds 25

received, or processed in the course of his employment triat 1 2 or-investigation-before-any-courty-grand-jury-or-petit-juryy or-any-officer-thereofy-pefore-the-presiding-officer-of--any 3 4 tribunaly--or-his-agent-or-agentsy-or-before-any-commissiony 5 departmenty-division-or-bureau-of-the-statey-or--before--any 6 county-or-municipal-bodyy-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 wife without her consent; nor a wife for or against her 25

-2-

HRIL

## INTRODUCED BILL

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

A licensed physician or surgeon cannot, without the
consent of his patient, be examined in a civil action as to
any information acquired in attending the patient, which was
necessary to enable him to prescribe or act for the patient.
5. A public officer cannot be examined as to
communications made to him in official confidence, when the
public interests would suffer by the disclosure.

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

observation of child mentality, shall not without the
 consent of the parent or guardian of such child being so
 taught or observed testify in any civil action as to any
 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---publishery---editory--reporter---other--person 13 connected --with--or-employed-upon-a-newspapery-or-by-a-press 14 association-or-wire-service,-or-any-person-who-has-been--so 15 connected---or--employedy--connot--without--his--consent--be 16 examined-as-to-any-communication-made-to-his--in--confidence 17 for--the--purpose--of--proper--publication--nor--shall-he-be 18 adjudged-in-contempt-by-a--courty--the--legislature--or--any administrative--body--for-refusing-to-disclose-the-source-of 19 20 onv-information-procured-while-so-connected-or-employed-for 21 publication-and-published-in-a-newspaperv 22 Nor--con--a--radio-ar-television-news-reporter-or-other Z3 person-connected-with-or-employed-by-a-radio--or--television 24 stationy--or--ony--person--who--has--been--so--connected--or 25 employedy--without--his--consent--be--examined--os--to---ony

1 communication--made--to-him-in-confidence-for-the-purpose-of proper-publication-nor-shall-he-be-so-adjudged--in--contempt for--refusing--to--disclose--the--source--of-any-information procured-while-so-connected-or-employed--for--news--or--news commentary-purposes-on-radio-or-televisionv 98. A speech pathologist or audiologist cannot, without the consent of his client, be examined in a civil

8 action as to any communication made by the client to him.\*

-End-

**ء** 

LC 0281/01

											Raised	to e Report
ì						HB	вт	L NO.	11	6_		
2	IN	TRODU	JCED	BY	<u>(300</u>	idlan	1	<u>u</u>	≌∽∕			
3 1	t	in	nil	ž.	Bri Elli	,	١		0			
4	A	BILL	FOR	AN	ACT	ENTITLE	D:	"AN	ACT	TO	AMEND	SECTION

5 93-601-2 AND 93-701-4+ R.C.M. 1947, TO EXTEND REPORTER'S PRIVILEGE TO INFORMATION OBTAINED FOR COMMUNICATION TO THE 6 7 PUBLIC.\*

8

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

10 Section 1. Section 93-601-2, R.C.N. 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-persons 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 connected with or employed by any newspapers or--any--press 15 17 associationy---or---any news\_service, radio broadcosting 18 station, or-any television station, or community antenna 19 television service for the purpose of gathering, procuring, 20 compilingy writing, editing, or disseminating, -- publishing, 21 broadcasting-or-televising news shall may be examined as to: 22 or may be required to disclose <u>any information obtained or</u> 23 prepared or 'the source of any that information procured-or 24 obtained-by-such-person-in-the-course-of-his-employmenty in 25 any legal proceeding, if the information was gathered.

SECOND READING

ı	received, or processed in the course of his employment triat
2	or-investigation-before-any-courty-grand-jury-or-petit-jury-
3	<del>or-any-officer-thereofy-before-the-presiding-officer-ofany</del>
4	tribunalvor-his-agent-or-agentsv-or-before-any-commissionv
5	departmenty-division-or-bureau-of-the-statey-orbeforeany
6	county-or-municipal-bodyy-officer-or-committee-thereof.
7	(2) A person engaged as in subsection (1) may not be
8	<u>adjúdged in contempt by a judicial, legislative,</u>
9	administrative, or any other body having the power to issue
10	<u>subpoenas for refusing to disclose the source of any</u>
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	<u>or both</u> ."
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	<ol> <li>A husband cannot be examined for or against his</li> </ol>
25	wife without her consent; nor a wife for or against her

-2-

HRIL

### LC 0231/01

.

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

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

observation of child mentalityy shall not without the
 consent of the parent or guardian of such child being so
 taught or observed testify in any civil action as to any
 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---\*--publisher---editory--reporter--or--other--person 13 connected--with--or-employed-upon-a-newspapery-or-by-a-press 14 association-or-wire-servicey-or-any-person-who-has--been--so connected---or--employedy--cannot--without--his--consent--b: 15 examined-as-to-any-communication-made-to-him--in--confidence 16 17 for--the--purpose--of--proper--publication--nor--shall-he-be 18 adjudged-in-contempt-by-a--courty--the--legislature--or--any administrative--body--for-refusing-to-disclose-the-source-of 19 any-information-procured-while-so-connected-or-employed--for 20 21 publication-and-published-in-a-newspaperv Nor--can--a--fadio-of-television-news-reporter-or-other 22 person-connected-with-or-employed-by-a-radia--or--television 23 24

- 24 stationy--or--any--person--who--has--been--so--connected--or
- 25 employedy--without--his--consent--be--examined--as--to---any

-3-

-4-

1	communicationmadeto-him-in-confidence-for-the-purpose-of
z	proper-publication-nor-shall-he-be-so-adjudgedincontempt
3	forrefusingtodisclosethesourceof-any-information
4	procured-while-so-connected-or-employedfornewsornews
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-

<u>HB</u> BILL NO. 1/16 1 2 INTRODUCED BY Gradley 3 Maiguille Alli A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 4 93-601-2 AND 93-701-4, R.C.M. 1947, TO EXTEND REPORTER'S 5 PRIVILEGE TO INFORMATION OBTAINED FOR COMMUNICATION TO THE 6 PUBLIC." 7 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 9 Section 1. Section 93-601-2, R.C.M. 1947, is amended 10 to read as follows: 11 #93-601-2. Disclosure of information and source of 12 information -- when not required. (1) No-persons Without his 13 14 consent no person engaged, or who was so engaged at the time 15 the information sought was procured, in the work of or 15 connected with or employed by any newspaper, or--ony--press associationy---or---any <u>news services</u> radio broadcasting 17 station, or any television station, or community antenna 18 19 television service for the purpose of gathering, procuring, compilingy writing, editing, or disseminatingy--publishingy 20 broadcasting-or-televising news shall may be examined as to: 21 or may be required to disclose t any information obtained or 22 23 prepared or the source of any that information procured or obtained-by-such-person-in-the-course-of-his-employmenty in 24 25 any legal proceedingy if the information was gathered.

1	received, or processed in the course of his employment trial
2	or-investigation-before-any-courty-grand-jury-or-petit-juryy
3	<del>or-any-officer-thereofy-before-the-presiding-officer-ofany</del>
4	tribunalyor-his-agent-or-agentsy-or-before-any-commissiony
5	<del>departmenty-division-or-bureau-of</del> -the-statey-orbeforeany
6	county-or-municipal-bodyy-officer-or-committee-thereof.
7	(2) A person engaged as in subsection (1) may not be
8	<u>adjudged in contempt by a judicial. legislative.</u>
9	<u>administratives or any other body having the power to issue</u>
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_boths"
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	i. A husband cannot be examined for or against his
25	wife without her consent; nor a wife for or against her

-2-

HRILL

### THIRD READING

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

A licensed physician or surgeon cannot, without the
consent of his patient, be examined in a civil action as to
any information acquired in attending the patient, which was
necessary to enable him to prescribe or act for the patient.
5. A public officer cannot be examined as to
communications made to him in official confidence, when the
public interests would suffer by the disclosure.

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

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

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

12 8---A--publishery--editory--reporter--or--other--person 13 connected--with--or-employed-upon-a-newspapery-or-by-a-press 14 bssociation-or-wire-servicey-or-any-person-who-has--been--so 15 connected---or--employed---connot--without--his--consent--be 16 examined-as-to-any-communication-mode-to-him--in--confidence 17 for--the--purpose--of--proper--publication--nor--shall-he-be 18 odjudged-in-contempt-by-a--courty--the--legislature--or--any 19 edministrative--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 stationy--of--any--person--who--has--been--so--connected--of 24 employedy--without--his--consent--be--examined--as--to---any 25

-4-

.

1	communicationmadeto-him-in-confidence-for-the-purpose-of
2	proper-publication-nor-shalt-he-be-so-adjudgedincontempt
3	forrefusingtodisclosethesource-of-any-information
4	procured-while-so-connected-or-employedfornewsornews
5	commentary-purposes-on-radio-or-televisionw
6	9 <u>8</u> . 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-

## 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 <u>STANDING COMMITTEE REPORT</u> 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 subpoenaes, he waives the provisions of subsections (1) and (2)."

1	HOUSE BILL NO. 116	1	received, or processed in the course of his employment trial
2	INTRODUCED BY BRADLEY, MELOY, STAIGHILLER, HLLIS	z	or-investigation-before-any-courty-grand-jury-or-petit-juryy
3		3	or-any-officer-thereofy-before-the-presiding-officer-ofany
4	A BILL FOR AN ACT ENTITLED: MAN ACT TO AMEND SECTION	4	tribunalyor-his-agent-or-agentsy-or-before-any-commissiony
5	93-601-2 AND 93-701-4+ R.C.M. 1947+ TO EXTEND REPORTER'S	5	departmenty-division-or-bureau-of-the-statey-orbeforeany
6	PRIVILEGE TO INFORMATION OBTAINED FOR COMMUNICATION TO THE	6	county-or-municipal-bodyy-officer-or-committee-thereof.
7	PUBLIC."	٦	(2) A person engaged as in subsection (1) may not be
8		8	adjudged in contempt by a judicial, legislative.
Y	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	9	administrative, or any other body having the power to issue
10	Section 1. Section 93-601-2, R.C.M. 1947, is amended	10	subpoenas_for_refusing_to_disclose_the_source_of_any
11	to read as follows:	11	information_or_for_refusing_to_disclose_any_information
12	"93-601-2. Disclosure of <u>information and</u> source of	12	obtained or prepared in gathering, receiving, or processing
13	information when not required. <u>(1)</u> No-persons <u>Without his</u>	13	information in the course of his employment.
14	<u>consent no person</u> engaged <u>, or who was so engaged at the time</u>	14	(3) Dissemination, EXCEPT AS PROVIDED IN SUBSECTION
15	<u>the information sought was procured</u> in the work of or	15	[4], in whole or in part does not constitute a waiver of
16	connected with or employed by any newspapers $\sigma r - \sigma ny - \rho ress$	15	provisions of subsection (1) or (2), or both.
17	associationyorony <u>news_services</u> radio broadcasting	17	(4) IE THE PERSON CLAIMING THE PRIVILEGE VOLUNTARILY
15	station, or-any television station <u>, or community antenna</u>	18	UEFERS TO TESTIEY. WITH OR WITHOUT HAVING BEEN SUBPOENAED.
19	<u>television_service</u> for the purpose of gathering, <del>procuring,</del>	19	BEFORE A JUDICIAL. LEGISLATIVE. ADMINISTRATIVE. OR OTHER
20	compitingy writing, editing, or disseminatingypublishingy	20	BODY dAVING THE POWER TO ISSUE SUBPOENAES. HE WAIVES THE
21	broadcosting-or-televising news shall may be examined as to:	21	PROVISIONS OF SUBSECTIONS (1) AND (2)."
22	or may be required to disclose <u>, any information obtained or</u>	22	Section 2. Section 93-701-4, R.C.H. 1947, is amended
23	<u>prepared or</u> the source of <del>any <u>that</u> information <del>procured or</del></del>	٤٤	to read as follows:
24	<del>obtained-by-such-person-in-the-course-of-his-employmenty</del> in	24	*93-701-4. Persons in certain relations cannot be
25	any legal proceeding <del>y</del> <u>if the information was mathered</u>	25	examined. There are particular relations in which it is the

REFERENCE BILL

of subsection (1) or (2), or both. IE THE PERSON CLAIMING THE PRIVILEGE VOLUNTARILY IESTIEY. WITH OR WITHOUT HAVING BEEN SUBPOENAED. JUDICIAL. LEGISLATIVE, ADMINISTRATIVE, OR DIHER G THE POWER TO ISSUE SUBPOENAES. HE WAIVES THE DE SUBSECTIONS (1) AND (2)." on Z. Section 93-701-4, R.C.M. 1947, is amended follows: 01-4. Persons in certain relations cannot be There are particular relations in which it is the

> -2-HB 116

#### H8 0116/02

policy of the law to encourage confidence and to preserve it
 inviolate; therefore, a person cannot be examined as a
 witness in the following cases:

4 1. A husband cannot be examined for or against his wife without her consent; nor a wife for or against her 5 6 husband without his consent; nor can either, during the 7 marriage or afterward, be, without the consent of the other, 8 examined as to any communication made by one to the other 9 during the marriage; but this exception does not apply to a 10 civil action or proceeding by one against the other, nor to 11 a criminal action or proceeding for a crime committed by one 12 against the other.

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

17 3. A clergyman or priest cannot, without the consent 18 of the person making the confession, be examined as to any 19 confession made to him in his professional character in the 20 course of discipline enjoined by the church to which he 21 belongs.

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

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

4 5. Any person engaged in teaching psychology in any 5 school, or who acting as such is engaged in the study and 6 observation of child mentality, shall not without the 7 consent of the parent or guardian of such child being so 8 taught or observed testify in any civil action as to any 9 information so obtained.

 A counselor, psychologist, nurse, or teacher, 10 e ployed by any educational institution, cannot be examined 11 12 as to communications made to him in confidence by a duly 13 registered student of such institution; provided, however, 14 that this provision shall not apply where consent has been 15 given by the student, if not a minor, or if he is a minor, by the student and his parent or legal guardian. 16 17 da--A--publishery--editory--reporter--or--other--person

18 connected--with--or-employed-upon-a-newspapery-or-by-a-press

- 19 association-or-wire-servicey-or-any-person-who-has--been--so
- 20 connected---or--employedy--cannot--without--his--consent--be
- 21 examined-as-to-any-communication-made-to-him--in--confidence
- 22 for--the--purpose--of--proper--publication--nor--shall-he-be
- 23 adjudged-in-contempt-by-a-courty--the--legislature--ar--any
- 24 administrative--body--for-refusing-to-disclose-the-source-of
- 25 any-internation-procured-while-so-connected-or-employed-for

-4-

-3-

HB 116

Ha 0116/02

1	publication-and-published-in-a-newspaper+
ż	<del>dercana-radio-er-television-news-reporter-or-other</del>
3	person-connected-with-or-employed-by-a-radioortelevision
4	stationyoranypersonwhohasbeensoconnected-or
5	employedywithouthisconsentbeexaminedastoany
6	communicationmadeto-him-in-confidence-for-the-purpose-of
7	proper-sublication-nor-shall-he-be-so-adjudgedincontempt
8	forrefusingtodisclosethesource-of-any-information
9	procured-white-so-connected-or-employedfornewsornews
10	commentary-purposes-on-radio-or-television*
11	48. A speech pathologist or audiologist cannot,
12	without the consent of his client, be examined in a civil
13	action as to any communication made by the client to him."

-

-End-

-5-