



Legislation Text

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AN ACT SHIELDING JOURNALISTS FROM DISCLOSING CERTAIN INFORMATION IN GOVERNMENT PROCEEDINGS BE IT ENACTED BY THE CHEROKEE NATION:

Section 1. Title and Codification

This act shall be referred as the "Free Press Protection and Journalist Shield Act of 2012" and codified under Title ____ Section _____ of the Cherokee Nation Code Annotated (CNCA).

Section 2. Purpose

The purpose of this Act is to affirm the independence of a free press in the Cherokee Nation by providing protection of journalistic sources and information from disclosure in any Cherokee Nation proceeding.

Section 3. Legislative History

Cherokee Nation Constitution Article III, Section 4: "The Council shall make no law prohibiting the free exercise of religion or abridging the freedom of speech, or the press, or the right of the People to peaceably assemble, or to petition the Nation for a redress of grievances."

Section 4. Definitions

For the Purposes of this Act:

1. "Cherokee Nation proceeding" includes any proceeding or investigation before or by any judicial, legislative, executive or administrative body within the Cherokee Nation;
2. "Medium of communication" includes any newspaper, other periodical, book, pamphlet, website, podcast, news service, wire service, news or feature syndicate, broadcast station or network, cable television system, video, live stream, or other record;
3. "Information" includes any written, oral or pictorial news or any digital or tangible record;
4. "Published information" means any information disseminated to the public by the person from whom disclosure is sought;
5. "Unpublished information" includes information not disseminated to the public by the person from whom disclosure is sought, whether or not related information has been disseminated, and includes, but is not limited to, all notes, outtakes, photographs, video clips or other data of any type not itself disseminated to the public through a medium of communication, whether or not published information based upon or related to such material has been disseminated;
6. "Processing" includes compiling, storing and editing of information; and
7. "Journalist" means any person who is a reporter, photographer, editor, commentator, journalist, correspondent, announcer, videographer, or other individual regularly engaged in obtaining, writing, reviewing, editing, or otherwise preparing news for any newspaper, periodical, press association, newspaper syndicate, wire service,

website, radio or television station, or other news service. Any individual employed by any such news service in the performance of any of the above-mentioned activities shall be deemed to be regularly engaged in such activities.

Section 5. Substantive Provisions

1. No journalist shall be required to disclose in a Cherokee Nation proceeding either:
 - a. The source of any published or unpublished information obtained in the gathering, receiving or processing of information for any medium of communication to the public; or
 - b. Any unpublished information obtained or prepared in gathering, receiving or processing of information for any medium of communication to the public; unless the court finds that the party seeking the information or identity has established by clear and convincing evidence that such information or identity is relevant to a significant issue in the action and could not with due diligence be obtained by alternate means.
2. This section does not apply with respect to the content or source of allegedly defamatory information, in a civil action for defamation wherein the defendant asserts a defense based on the content or source of such information.

Section 6. Provisions as cumulative

The provisions of this act shall be cumulative to existing law.

Section 7. Severability

The provisions of this act are severable and if any part of provision hereof shall be held void the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this act.

Section 8. Emergency Declared

It being immediately necessary for the welfare of the Cherokee Nation, the Council hereby declares that an emergency exists, by reason whereof this Act shall take effect and be in full force after its passage and approval.