

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 14-0467.01 Jerry Barry x4341

SENATE BILL 14-034

SENATE SPONSORSHIP

Herpin,

HOUSE SPONSORSHIP

(None),

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING STRENGTHENING THE PROTECTION OF THE PRESS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Current law requires a party seeking to enforce a subpoena against a newsperson to establish 3 elements by a preponderance of the evidence. The bill changes the standard to clear and convincing evidence and requires the party to show the following 4 elements:

- ! The information was not obtained in confidence;
- ! The information is highly material and relevant;
- ! The information is critical to a material issue; and

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

! The information is not obtainable from another source.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 13-90-119, **amend**
3 (3) as follows:

4 **13-90-119. Privilege for newsperson.** (3) Notwithstanding the
5 privilege of nondisclosure granted in subsection (2) of this section, any
6 party to a proceeding who is otherwise authorized by law to issue or
7 obtain subpoenas may subpoena a newsperson in order to obtain news
8 information by establishing by a ~~preponderance of the~~ CLEAR AND
9 CONVINCING evidence, in opposition to a newsperson's motion to quash
10 such subpoena THAT:

11 (a) THE NEWSPERSON DID NOT OBTAIN THE INFORMATION IN
12 CONFIDENCE; AND

13 ~~(a) (b) (I) That~~ The news information is ~~directly~~ HIGHLY
14 MATERIAL AND relevant to a substantial issue involved in the proceeding;

15 ~~(b) (II) That~~ The news information ~~cannot be obtained by any~~
16 ~~other reasonable means~~ IS CRITICAL OR NECESSARY TO THE MAINTENANCE
17 OF A PARTY'S CLAIM, DEFENSE, OR PROOF OF AN ISSUE MATERIAL THERETO;
18 and

19 ~~(c) (III) That a strong interest of the party seeking to subpoena the~~
20 ~~newsperson outweighs the interests under the first amendment to the~~
21 ~~United States constitution of such newsperson in not responding to a~~
22 ~~subpoena and of the general public in receiving~~ THE news information IS
23 NOT OBTAINABLE FROM ANY ALTERNATIVE SOURCE.

24 **SECTION 2. Act subject to petition - effective date -**
25 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following

1 the expiration of the ninety-day period after final adjournment of the
2 general assembly (August 6, 2014, if adjournment sine die is on May 7,
3 2014); except that, if a referendum petition is filed pursuant to section 1
4 (3) of article V of the state constitution against this act or an item, section,
5 or part of this act within such period, then the act, item, section, or part
6 will not take effect unless approved by the people at the general election
7 to be held in November 2014 and, in such case, will take effect on the
8 date of the official declaration of the vote thereon by the governor.

9 (2) This act applies to subpoenas issued on or after the applicable
10 effective date of this act.