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FOR FREEDOM OF THE PRESS

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Affiliations appear only for purposes of identification.

By email

February 25, 2025

Idaho State Legislature
700 W Jefferson St.
Boise, Idaho 83702

Re: Support for HB158

Dear Senator:

The Reporters Committee for Freedom of the Press writes in strong support of House Bill 158, which would establish statutory protections for journalists from being compelled to identify confidential sources in legal proceedings, or to disclose unpublished material obtained or created in the course of newsgathering.

Idaho is one of only ten states in the United States that does not have a reporter's "shield" law.¹ Idaho courts have recognized a limited reporter's privilege, but have not been consistent in applying it.²

Since many sources can face legal consequences and even physical harm for disclosing information of public importance to the news media, it is critical that journalists be able to credibly assure sources that their identities will remain confidential. Clearly defined protections from such disclosures will help preserve the free flow of information, promote government accountability, and improve the public's understanding of issues that directly impact their daily lives.

Legislation codifying the reporter's privilege in Idaho is timely and critical. In recent years, reporters in Idaho have been forced to disclose information related to their confidential sources in court proceedings. For instance, EastIdahoNews.com was subpoenaed last year and required to play an off-the-record conversation between a journalist and source in court.³ The news organization BoiseDev was also subpoenaed last year for communications with a source and faced the threat of being held in contempt of court. While the subpoena was eventually withdrawn, the BoiseDev was

¹ For a thorough accounting of the law on reporter's privileges in every federal and state jurisdiction, see Reporters Privilege Compendium, Reporters Comm. for Freedom of the Press, <https://www.rcfp.org/reporters-privilege/> (last visited February 20, 2025).

² See *id.*, <https://www.rcfp.org/privilege-compendium/idaho/> (collecting Idaho case law on the reporter's privilege).

³ See Nate Sunderland, *A confidential conversation between a reporter and a source was played in court. Why that's a problem*, EastIdahoNews.com (Dec. 19, 2024), <https://perma.cc/HN2L-E5WE>.

still forced to pay thousands of dollars in legal fees and dedicated considerable resources in responding to the subpoena.⁴

As noted, HB 158, which the Idaho House Judiciary, Rules, and Administration Committee voted unanimously to advance, would shield reporters from having to disclose information identifying confidential sources, as well as unpublished information, notes, or communications obtained or created through the course of newsgathering activities. This bill's protections would apply to sources who provide journalists with information that is then published in "a newspaper, print publication, digital news outlet, or by a radio or television broadcasting station" with which a journalist is connected.

The bill also includes narrow exceptions. While the protections against source identification would be absolute, a journalist's unpublished materials – including any notes or communications with sources – would be protected except as required by law in cases involving national security or imminent physical harm.

HB 158 is a reasonable, common-sense measure intended to protect source identities and confidential newsgathering information. This is evidenced by its bipartisan support and the fact that a large majority of states have codified similar protections. Without some safeguard for confidential source identities and sensitive newsgathering material, the press cannot fulfill its constitutionally recognized watchdog role. We urge the Idaho State Legislature to pass this critical legislation.

Please do not hesitate to contact Gabe Rottman, Vice President of Policy at the Reporters Committee (grottman@rcfp.org), with any questions.

Sincerely,

Reporters Committee for
Freedom of the Press

⁴ See Clark Corbin, *Independent news outlets like BoiseDev, EastIdahoNews see rise in subpoenas. Idaho bill would shield some confidential sources*, BoiseDev (Feb. 7, 2025), <https://perma.cc/MZ2D-8S2Q>.