

Federal Shield Law Clears Senate Panel

Digital Media and Data Privacy Law Blog

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Posted in Shield Laws

After weeks of debate, the Senate Judiciary Committee today amended and passed the proposed federal shield law on to the full Senate for consideration. Even with this important step, it is unclear when the full Senate will vote on the measure or how quickly the Senate version can be reconciled with the House version.

In an important victory for the media, the Senate Judiciary bill reportedly adopts a broad definition of "journalist" -- one that, at this stage, includes bloggers and other journalists with non-traditional media organizations. This aspect of the bill was the focus of much debate, with politicians from all sides pushing for a narrower definition. During the Committee's debate, one of the key opponents of the broader formulation was California Democrat Dianne Feinstein. For a webcast of the Committee's markup session, [click here](#).

The final text of the bill that passed is not yet available, but as we reported in November, it is expected that the bill will provide for different burdens of proof in criminal and civil cases, with the journalist having to show by clear and convincing evidence that disclosure would harm the public interest in criminal cases, and the party seeking disclosure having to show that disclosure would be in the public interest in civil cases. The bill also reportedly retains a national security exception that would require disclosure if the sought-after information "would materially assist the Government in preventing, mitigating, or identifying the perpetrator of an act of terrorism or other significant and articulable harm to national security."

We will post full details of the actual Senate Judiciary bill once it becomes available. In the meantime, the Media Law Resource Center has a good collection of the various bills.