

Sen. Patrick Leahy's statement seeking quick Senate Action on Reporter-Source Shield Bill

ESTABLISHING A FEDERAL STATUTORY FIRST AMENDMENT PRIVILEGE

Mr. President, The Senate Judiciary Committee has considered and for the first time reported a bill to establish a Federal statutory privilege to safeguard the freedom of the press. The Free Flow of Information Act, S. 2035, is bipartisan legislation that was reported on a strong bipartisan vote. The House has already passed legislation on this same subject, H.R. 2102, with a strong, bipartisan and apparently veto-proof majority of 398 to 21. Thus, both S. 2035 and H.R. 2102 are available for Senate action on the Senate business calendar. I strongly support the enactment of a Federal shield law for journalists, and I urge the Senate to promptly consider Federal shield legislation.

All of us have an interest in enacting a balanced and meaningful first amendment privilege. Sadly, the press has become the first stop, rather than the last resort, for our Government and private litigants when it comes to seeking information. This is a dangerous trend that can have a chilling effect on the press and the public's right to know.

Enacting Federal shield legislation would help to reverse this troubling trend. In fact, proceeding promptly to consideration of this legislation is something I strongly support. Should the Senate take up the bipartisan shield bill that overwhelmingly passed in the House, Federal shield legislation could go immediately to the President's desk and be signed into law without delay this year.

The Senate bill has the support of a bipartisan coalition of Senators, including Senators Specter, Schumer, Lugar, Dodd, Graham, and myself, who have all united to cosponsor this legislation. In addition, more than 50 news media and journalism organizations support this legislation, and the call for Senate action on this historic bill extends to editorial pages across the country, including the New York Times, Arizona Republic, L.A. Times, Salt Lake Tribune, and San Francisco Chronicle, among others.

The Senate and House bills protect law enforcement interests and safeguard national security. Moreover, both of these bills follow the lead of 33 States and the District of Columbia which have shield laws, and many other States, including Vermont, which recognize a common law reporters' privilege. Tellingly, the Bush administration has not identified a single circumstance where a reporters' privilege has caused harm to national security or to law enforcement, despite the fact that many courts have recognized such a privilege for years.

When he testified before the Judiciary Committee in favor of Federal shield legislation in 2005, William Safire told the Committee that the essence of newsgathering is this:

If you don't have sources you trust and who trust you, then you don't have a solid story—and the public suffers for it.

On behalf of the American public, I urge the Senate to protect the public's right to know by promptly considering and passing a Federal shield law