

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 810
Judiciary

(Delegate Kipke)

Criminal Procedure - Cameras in the Courtroom - Criminal Sentencing
Hearings (Cameras in the Courtroom Act of 2022)

This bill creates an exception to the general prohibition against recording or broadcasting any criminal matter by permitting the recording or broadcasting of a “criminal sentencing hearing” under specified conditions. A media organization wishing to record or broadcast coverage of such a proceeding must file a request with the clerk of the court. The presiding judge may then grant, deny, or limit this request based on specified considerations.

Fiscal Summary

State Effect: Assuming that the bill’s requirements can be met without the acquisition of new equipment by the Judiciary for the District Court, then the bill’s requirements can be handled with existing resources.

Local Effect: Assuming that the bill’s requirements can be met without the installation of new equipment in the circuit courts, then the bill’s requirements can be handled with existing resources.

Small Business Effect: None.

Analysis

Bill Summary: To record or broadcast media coverage of a criminal sentencing hearing, a media organization must submit to the clerk of the court, at least 24 hours before the hearing, a request that:

- identifies the hearing to be covered;
- identifies the dates of media coverage requested;
- describes any pooling arrangements made by the media organization;
- describes the equipment to be used; and
- identifies the representatives of the media organization who will be present during the proceeding.

On receipt of the request, the clerk must give prompt notice of the request to all parties involved in the proceeding.

In deciding to grant or deny the request, the presiding judge may consider the importance of promoting public access to the judicial system; the privacy rights and security of minors, witnesses, and jurors; and the maintenance of orderly conduct during the proceeding. The judge may grant the request, order interested media organizations to make pooling arrangements, and/or limit media in any manner at any time on a finding of fact on the record that, without limitation, the coverage would:

- deny a defendant the right to a fair and impartial trial;
- substantially compromise the civil rights or safety of a party involved in the proceeding; or
- disrupt access to information by other news-gathering organizations.

The bill specifies that a judge may not grant a request for coverage of:

- a criminal proceeding closed to the public by law or judicial order;
- a criminal sentencing hearing if the request does not comply with the requirements set forth in the bill;
- any criminal matter other than a sentencing hearing;
- a grand jury proceeding;
- a juvenile proceeding; or
- a proceeding related to the prosecution of certain specified sexual crimes.

On request of a victim, a presiding judge must deny a request to provide media coverage.

Current Law: The recording of criminal proceedings in Maryland courts, either by television, radio, photograph, or other recording equipment, is generally prohibited by statute. Exceptions include recordings done to take the testimony of a victim of child abuse or to perpetuate a court record. The exceptions are inapplicable to media organizations.

Recording of civil proceedings is permitted in limited circumstances under Maryland Rule 16-605. Media coverage may not be permitted in a trial court unless all parties (with the exception of specific governmental entities) consent in writing to the coverage. While a consenting party may not withdraw consent, any party may move to terminate or limit the coverage at any time. While the written consent of all parties is not required for media coverage in the appellate courts, a party may move to terminate or limit coverage at any time.

The Maryland Rules also contain provisions on restrictions on media coverage and standards of conduct and technology for media coverage of court proceedings.

State Expenditures: This estimate assumes that the Administrative Office of the Courts (AOC) is able to fulfill the bill's requirements without acquiring new equipment for use by media organizations. The Judiciary advises that the bill has a significant operational impact and results in increased general fund expenditures to accommodate hearings for parties to address media requests within a short notice period and to install equipment in courtrooms.

The bill defines a "media organization" to include an entity that is capable of (1) establishing a visual or audio feed with visual or audio equipment provided by the court or (2) providing its own audio/visual equipment to provide media coverage or educational recordings of criminal proceedings. Thus, the bill does not appear to *require* a court to provide visual or audio equipment or require the Judiciary to install audiovisual equipment in its courtrooms.

According to the Judiciary, tripod and handheld cameras can interfere with wheelchair access and security in courtrooms, many of which are historic buildings. The Judiciary advises that to comply with safety concerns and preserve the dignity of the courtroom, it incurs additional expenditures of approximately \$3.0 million to install upgrades to facilitate live audio/video feeds in 150 courtrooms; ongoing maintenance costs may also be incurred. The Department of Legislative Services advises, however, that complying with the bill's requirements does not, in and of itself, necessitate the installation of a new audio/video system.

The Judiciary further advises that it incurs indeterminate expenditures to ensure bandwidth capability for media networks using their own equipment to utilize the Judiciary's public wireless network. This analysis assumes that the bill does not require the Judiciary to provide additional network capability or technical assistance to media organizations granted access to courtroom proceedings.

Local Expenditures: AOC has historically advised that local governments are responsible for maintenance of circuit court structures and may incur additional expenditures should issues, such as asbestos, arise with installation of upgrades to courtrooms. However, as

previously noted, the bill does not appear to require the Judiciary to install a camera system in its courtrooms.

Additional Information

Prior Introductions: HB 1376 of 2020 received a hearing in the House Judiciary Committee, but no further action was taken. HB 756 of 2019, HB 43 of 2017, and HB 81 of 2016, all similar bills, received unfavorable reports from the House Judiciary Committee. Similar bills were introduced in the 2007 through 2009 legislative sessions.

Designated Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Department of Legislative Services

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