

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 133 (Delegates Moon and Williams)
 Judiciary

Court Proceedings - Remote Public Access and Participation

This bill requires each appellate court, circuit court, and District Court in the State to provide contemporaneous remote audio-visual public access to all public court proceedings, unless a proceeding is deemed closed, confidential, or restricted by federal or State law. A presiding judge may prohibit the broadcast of any portion of a proceeding on the request of any party, witness, or counsel involved in the proceeding, unless there is an overriding public interest compelling disclosure. The bill also (1) authorizes a presiding judge to allow an individual who is not a party to participate in a proceeding remotely, as specified, on request of counsel and for good cause shown; (2) requires each court to designate a person – whose contact information is published on the court’s website – to receive and respond to reports about system malfunctioning; and (3) requires the responsible person to work expeditiously to resolve any reported malfunction.

Fiscal Summary

State Effect: General fund expenditures increase by at least \$1.9 million in FY 2024 and by at least \$2.6 million annually thereafter. Revenues are not affected.

(\$ in millions)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	1.9	2.6	2.6	2.6	2.6
Net Effect	(\$1.9)	(\$2.6)	(\$2.6)	(\$2.6)	(\$2.6)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Potential increase in circuit court expenditures, as discussed below. Revenues are not affected.

Small Business Effect: Minimal.

Analysis

Current Law: Although not required by statute or the Maryland Rules, the State's appellate courts generally enable individuals to remotely view oral arguments through live webcasts and an archive of past proceedings.

The Maryland Rules specify circumstances under which a judge in a circuit court or District Court may permit or require participants (including an individual who is not a party) in civil proceedings to participate by means of remote electronic participation. If a civil proceeding in a circuit court or District Court that otherwise would be open to the public is conducted entirely by remote electronic means, the court must ensure that members of the public have the ability to listen to the nonredactable portions of the proceeding during the course of the proceeding through remote electronic means. Pursuant to an Administrative Order issued by the Court of Appeals (now the Supreme Court of Maryland), the use of remote proceedings is encouraged to be utilized as a robust component of efficient case management in all trial courts. Generally, at the discretion of the judicial officer or pursuant to the guidelines established by the administrative judge or their designee, hearings in contested and uncontested criminal, family, or juvenile proceedings may be undertaken by way of remote hearing either telephonically or using video conferencing technology.

In addition, the Maryland Rules specify how official recordings of proceedings (including proceedings conducted by remote electronic means) must be created, maintained, and made available upon request.

State Expenditures: The bill has a significant operational and fiscal impact on the Judiciary, with estimated annual expenditures (as provided by the Judiciary) of at least \$2.6 million for costs associated with the technical equipment/services necessary to enable each court to provide contemporaneous remote audio-visual access for each court proceeding (subject to exceptions under the bill for specific proceedings).

The Judiciary also estimates that an additional clerk is needed in each circuit court and District Court courtroom who can be responsible for (1) receiving and responding to any reports regarding issues with the public access and (2) ensuring that the audio-video broadcast equipment and services in each courtroom are working correctly. Specifically, the Judiciary advises that 249 courtroom clerks for the circuit courts and 124 courtroom clerks for the District Court are required, at an annual cost of approximately \$25 million in fiscal 2024, increasing to over \$35 million by fiscal 2028.

The Department of Legislative Services (DLS) acknowledges that continuous monitoring/supervising the functioning of the audio-visual equipment and receiving reports of and responding expeditiously to any reported malfunction, as specifically

required by the bill, likely necessitates additional resources beyond those accounted for above. However, DLS further advises that the extent of any additional resources needed can only be determined with actual experience under the bill. Regardless, DLS generally disagrees with the overall assessment that the bill's implementation requires additional personnel costs of the magnitude estimated by the Judiciary, as the level of effort involved in receiving and responding to reports of malfunctions, responding in an expeditious fashion to resolve any malfunction, and generally monitoring the equipment does not necessitate an additional full-time position exclusively tasked with these duties in each courtroom.

Local Fiscal Effect: Because local governments are responsible for the maintenance of circuit court structures, they may incur additional expenditures should any alterations or additional maintenance be needed to facilitate remote audio-visual access of court proceedings.

Additional Information

Prior Introductions: Similar legislation has been introduced within the last three years. See HB 647 and SB 469 of 2022.

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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js/jkb

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