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By: **Delegates Smigiel, Anderson, Boschert, Carter, Kelley, and Zirkin**

Introduced and read first time: February 11, 2005

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - Media Coverage of Criminal Proceedings**

3 FOR the purpose of repealing a prohibition against recording or broadcasting any  
4 criminal matter held in trial court or before a grand jury; authorizing a  
5 presiding judge to grant a media organization's request to provide media  
6 coverage of certain criminal proceedings under certain circumstances;  
7 establishing the requirements for a media organization's request to provide  
8 media coverage of a criminal proceeding; requiring the clerk of court to provide  
9 notice to certain parties on receipt of a request to provide media coverage;  
10 providing certain factors that a presiding judge may consider in deciding to  
11 grant or deny the request to provide media coverage; authorizing the presiding  
12 judge to grant a request to provide media coverage that does not comply with  
13 certain requirements; authorizing the judge to make a certain order; authorizing  
14 the presiding judge to limit certain media coverage, after making a certain  
15 finding of fact on the record; prohibiting a presiding judge from granting certain  
16 requests for media coverage; defining certain terms; making the provisions of  
17 this Act severable; and generally relating to media coverage of criminal  
18 proceedings.

19 BY repealing and reenacting, with amendments,  
20 Article - Criminal Procedure  
21 Section 1-201  
22 Annotated Code of Maryland  
23 (2001 Volume and 2004 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
25 MARYLAND, That the Laws of Maryland read as follows:

26 **Article - Criminal Procedure**

27 1-201.

28 [(a) (1) Except as provided in subsection (b) of this section, a person may not  
29 record or broadcast any criminal matter, including a trial, hearing, motion, or  
30 argument, that is held in trial court or before a grand jury.

1 (2) This prohibition applies to the use of television, radio, and  
2 photographic or recording equipment.]

3 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
4 INDICATED.

5 (2) "CRIMINAL PROCEEDING" IS A CRIMINAL MATTER HEARD IN OPEN  
6 COURT THAT THE PUBLIC IS ENTITLED TO ATTEND, INCLUDING PRETRIAL, TRIAL,  
7 AND POSTTRIAL PROCEDURES.

8 (3) "MEDIA COVERAGE" MEANS VISUAL OR AUDIO RECORDINGS OF  
9 CRIMINAL PROCEEDINGS BY A MEDIA ORGANIZATION.

10 (4) "MEDIA ORGANIZATION" INCLUDES A NEWS-GATHERING OR  
11 EDUCATIONAL ENTITY THAT IS CAPABLE OF:

12 (I) ESTABLISHING A VISUAL OR AUDIO FEED WITH VISUAL OR  
13 AUDIO EQUIPMENT PROVIDED BY THE COURT; OR

14 (II) PROVIDING ITS OWN VISUAL OR AUDIO EQUIPMENT FOR THE  
15 PURPOSE OF PROVIDING MEDIA COVERAGE OR EDUCATIONAL RECORDINGS OF  
16 CRIMINAL PROCEEDINGS.

17 (5) "PRESIDING JUDGE" MEANS:

18 (I) THE JUDGE DESIGNATED TO PRESIDE OVER A CRIMINAL  
19 PROCEEDING FOR WHICH MEDIA COVERAGE IS REQUESTED; OR

20 (II) IF A JUDGE HAS NOT BEEN DESIGNATED TO PRESIDE OVER A  
21 CRIMINAL PROCEEDING AT THE TIME A REQUEST FOR MEDIA COVERAGE OF THE  
22 PROCEEDING WAS MADE, THE COUNTY ADMINISTRATIVE JUDGE OR THE  
23 ADMINISTRATIVE JUDGE FOR THE DISTRICT IN WHICH THE CRIMINAL PROCEEDING  
24 IS TO TAKE PLACE.

25 (6) "VISUAL AND AUDIO RECORDINGS" INCLUDES INFORMATION  
26 OBTAINED THROUGH THE USE OF TELEVISION, RADIO, PHOTOGRAPHIC, OR  
27 RECORDING EQUIPMENT PROVIDED BY THE COURT OR A MEDIA ORGANIZATION.

28 (B) (1) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A  
29 PRESIDING JUDGE MAY GRANT A MEDIA ORGANIZATION'S REQUEST TO PROVIDE  
30 MEDIA COVERAGE OF A CRIMINAL PROCEEDING IF, AT LEAST 24 HOURS BEFORE THE  
31 CRIMINAL PROCEEDINGS IS SCHEDULED TO BEGIN, THE MEDIA ORGANIZATION  
32 FILES WITH THE CLERK OF THE COURT IN WHICH THE CRIMINAL PROCEEDING IS TO  
33 BE HELD A WRITTEN REQUEST THAT:

34 (I) IDENTIFIES THE CRIMINAL PROCEEDING TO BE COVERED;

35 (II) IDENTIFIES THE DATES OF MEDIA COVERAGE REQUESTED BY  
36 THE MEDIA ORGANIZATION;

1 (III) DESCRIBES ANY POOLING ARRANGEMENT MADE BY MEDIA  
2 ORGANIZATIONS;

3 (IV) DESCRIBES THE EQUIPMENT TO BE USED BY THE MEDIA  
4 ORGANIZATION; AND

5 (V) IDENTIFIES THE REPRESENTATIVES OF THE MEDIA  
6 ORGANIZATION WHO WILL BE PRESENT DURING THE PROCEEDING.

7 (2) ON RECEIPT OF A REQUEST TO PROVIDE MEDIA COVERAGE, THE  
8 CLERK OF THE COURT SHALL GIVE PROMPT NOTICE OF THE REQUEST TO EACH  
9 PARTY INVOLVED IN THE CRIMINAL PROCEEDING.

10 (3) IN DECIDING TO GRANT OR DENY THE REQUEST, THE PRESIDING  
11 JUDGE MAY CONSIDER:

12 (I) THE IMPORTANCE OF PROMOTING PUBLIC ACCESS TO THE  
13 JUDICIAL SYSTEM;

14 (II) THE PRIVACY RIGHTS AND SECURITY OF MINORS, WITNESSES,  
15 AND JURORS; AND

16 (III) THE MAINTENANCE OF ORDERLY CONDUCT DURING THE  
17 CRIMINAL PROCEEDING.

18 (4) THE PRESIDING JUDGE MAY:

19 (I) GRANT A REQUEST TO PROVIDE MEDIA COVERAGE THAT DOES  
20 NOT COMPLY WITH THE REQUIREMENTS SET FORTH IN PARAGRAPH (1) OF THIS  
21 SUBSECTION;

22 (II) ORDER INTERESTED MEDIA ORGANIZATIONS TO MAKE  
23 POOLING ARRANGEMENTS TO BROADCAST MEDIA COVERAGE TO PREVENT  
24 INTERFERENCE WITH THE CONDUCT OF THE CRIMINAL PROCEEDING; AND

25 (III) LIMIT MEDIA COVERAGE IN ANY MANNER AT ANY TIME BEFORE  
26 OR DURING A CRIMINAL PROCEEDING, AFTER MAKING A FINDING OF FACT ON THE  
27 RECORD THAT, WITHOUT THE LIMITATION, THE MEDIA COVERAGE WOULD:

28 1. DENY A DEFENDANT THE RIGHT TO A FAIR AND  
29 IMPARTIAL TRIAL;

30 2. SUBSTANTIALLY COMPROMISE THE CIVIL RIGHTS OR  
31 SAFETY OF A PARTY INVOLVED IN THE CRIMINAL PROCEEDING; OR

32 3. DISRUPT THE ACCESS TO INFORMATION BY OTHER  
33 NEWS-GATHERING ORGANIZATIONS.

34 (C) A PRESIDING JUDGE MAY NOT GRANT A REQUEST FOR MEDIA COVERAGE  
35 OF:

1 (1) A CRIMINAL PROCEEDING CLOSED TO THE PUBLIC BY LAW OR  
2 JUDICIAL ORDER;

3 (2) A GRAND JURY PROCEEDING;

4 (3) A JUVENILE PROCEEDING; OR

5 (4) A CRIMINAL PROCEEDING RELATING TO A PROSECUTION OF A  
6 SEXUAL CRIME UNDER TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE.

7 [(b)] (D) [Subsection (a) of this] THIS section does not apply to the use of  
8 electronic or photographic equipment approved by the court:

9 (1) to take the testimony of a child victim under § 11-303 of this article;  
10 or

11 (2) to perpetuate a court record.

12 [(c)] (E) A person who violates this section may be held in contempt of court.

13 SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this  
14 Act or the application thereof to any person or circumstance is held invalid for any  
15 reason in a court of competent jurisdiction, the invalidity does not affect other  
16 provisions or any other application of this Act which can be given effect without the  
17 invalid provision or application, and for this purpose the provisions of this Act are  
18 declared severable.

19 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take  
20 effect October 1, 2005.