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By: **Senators Giannetti and Jimeno**

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Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted

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CHAPTER \_\_\_\_\_

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; prohibiting a presiding judge from granting a  
 17 request for media coverage unless all parties have filed written consent with the  
 18 court; requiring media coverage of the testimony of a witness in a criminal  
 19 proceeding to be terminated or limited under certain circumstances; defining  
 20 certain terms; making the provisions of this Act severable; and generally  
 21 relating to media coverage of criminal proceedings.

22 BY repealing and reenacting, with amendments,  
 23 Article - Criminal Procedure  
 24 Section 1-201  
 25 Annotated Code of Maryland  
 26 (2001 Volume and 2004 Supplement)

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

3 **Article - Criminal Procedure**

4 1-201.

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

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

10 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
11 INDICATED.

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

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

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

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

21 (II) PROVIDING ITS OWN VISUAL OR AUDIO EQUIPMENT FOR THE  
22 PURPOSE OF PROVIDING MEDIA COVERAGE OR EDUCATIONAL RECORDINGS OF  
23 CRIMINAL PROCEEDINGS.

24 (5) "PRESIDING JUDGE" MEANS:

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

27 (II) IF A JUDGE HAS NOT BEEN DESIGNATED TO PRESIDE OVER A  
28 CRIMINAL PROCEEDING AT THE TIME A REQUEST FOR MEDIA COVERAGE OF THE  
29 PROCEEDING WAS MADE, THE COUNTY ADMINISTRATIVE JUDGE OR THE  
30 ADMINISTRATIVE JUDGE FOR THE DISTRICT IN WHICH THE CRIMINAL PROCEEDING  
31 IS TO TAKE PLACE.

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

1 (B) (1) EXCEPT AS PROVIDED IN ~~SUBSECTION (C)~~ SUBSECTIONS (C) AND (D)  
2 OF THIS SECTION AND SUBJECT TO THE APPROVAL OF THE COUNTY  
3 ADMINISTRATIVE JUDGE OR THE ADMINISTRATIVE JUDGE FOR THE DISTRICT IN  
4 WHICH THE CRIMINAL PROCEEDING IS TO TAKE PLACE, A PRESIDING JUDGE MAY  
5 GRANT A MEDIA ORGANIZATION'S REQUEST TO PROVIDE MEDIA COVERAGE OF A  
6 CRIMINAL PROCEEDING IF, AT LEAST 24 HOURS BEFORE THE CRIMINAL  
7 ~~PROCEEDINGS~~ PROCEEDING IS SCHEDULED TO BEGIN, THE MEDIA ORGANIZATION  
8 FILES WITH THE CLERK OF THE COURT IN WHICH THE CRIMINAL PROCEEDING IS TO  
9 BE HELD A WRITTEN REQUEST THAT:

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

11 (II) IDENTIFIES THE DATES OF MEDIA COVERAGE REQUESTED BY  
12 THE MEDIA ORGANIZATION;

13 (III) DESCRIBES ANY POOLING ARRANGEMENT MADE BY MEDIA  
14 ORGANIZATIONS;

15 (IV) DESCRIBES THE EQUIPMENT TO BE USED BY THE MEDIA  
16 ORGANIZATION; AND

17 (V) IDENTIFIES THE REPRESENTATIVES OF THE MEDIA  
18 ORGANIZATION WHO WILL BE PRESENT DURING THE CRIMINAL PROCEEDING.

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

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

24 (I) THE IMPORTANCE OF PROMOTING PUBLIC ACCESS TO THE  
25 JUDICIAL SYSTEM;

26 (II) THE PRIVACY RIGHTS AND SECURITY OF MINORS, WITNESSES,  
27 AND JURORS; AND

28 (III) THE MAINTENANCE OF ORDERLY CONDUCT DURING THE  
29 CRIMINAL PROCEEDING.

30 (4) THE PRESIDING JUDGE MAY:

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

34 (II) ORDER INTERESTED MEDIA ORGANIZATIONS TO MAKE  
35 POOLING ARRANGEMENTS TO BROADCAST MEDIA COVERAGE TO PREVENT  
36 INTERFERENCE WITH THE CONDUCT OF THE CRIMINAL PROCEEDING; AND

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

4 1. DENY A DEFENDANT THE RIGHT TO A FAIR AND  
 5 IMPARTIAL TRIAL;

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

8 3. DISRUPT THE ACCESS TO INFORMATION BY OTHER  
 9 NEWS-GATHERING ORGANIZATIONS.

10 (C) A PRESIDING JUDGE MAY NOT GRANT A REQUEST FOR MEDIA COVERAGE  
 11 OF:

12 (1) A PROCEEDING IN DISTRICT COURT;

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

15 ~~(2)~~ (3) A GRAND JURY PROCEEDING;

16 ~~(3)~~ (4) A JUVENILE PROCEEDING; OR

17 ~~(4)~~ (5) A CRIMINAL PROCEEDING RELATING TO A PROSECUTION OF A  
 18 SEXUAL CRIME UNDER TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE.

19 (D) (1) A PRESIDING JUDGE MAY NOT GRANT A REQUEST FOR MEDIA  
 20 COVERAGE OF A CRIMINAL PROCEEDING UNDER SUBSECTION (B) OF THIS SECTION  
 21 UNLESS ALL PARTIES HAVE FILED WRITTEN CONSENT WITH THE COURT.

22 (2) MEDIA COVERAGE OF THE TESTIMONY OF A WITNESS IN A CRIMINAL  
 23 CASE SHALL BE TERMINATED OR LIMITED IN ACCORDANCE WITH THE REQUEST OR  
 24 OBJECTION OF THE WITNESS.

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

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

29 (2) to perpetuate a court record.

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

32 SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this  
 33 Act or the application thereof to any person or circumstance is held invalid for any  
 34 reason in a court of competent jurisdiction, the invalidity does not affect other  
 35 provisions or any other application of this Act which can be given effect without the

1 invalid provision or application, and for this purpose the provisions of this Act are  
2 declared severable.

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