

(PRE-FILED)

By: **Delegate Smigiel**
Requested: November 15, 2005
Introduced and read first time: January 11, 2006
Assigned to: Judiciary

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 2005 Supplement)

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

1

Article - Criminal Procedure

2 1-201.

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

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

8 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
9 INDICATED.

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

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

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

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

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

22 (5) "PRESIDING JUDGE" MEANS:

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

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

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

33 (B) (1) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A
34 PRESIDING JUDGE MAY GRANT A MEDIA ORGANIZATION'S REQUEST TO PROVIDE
35 MEDIA COVERAGE OF A CRIMINAL PROCEEDING IF, AT LEAST 24 HOURS BEFORE THE
36 CRIMINAL PROCEEDING IS SCHEDULED TO BEGIN, THE MEDIA ORGANIZATION FILES

1 WITH THE CLERK OF THE COURT IN WHICH THE CRIMINAL PROCEEDING IS TO BE
2 HELD A WRITTEN REQUEST THAT:

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

4 (II) IDENTIFIES THE DATES OF MEDIA COVERAGE REQUESTED BY
5 THE MEDIA ORGANIZATION;

6 (III) DESCRIBES ANY POOLING ARRANGEMENT MADE BY MEDIA
7 ORGANIZATIONS;

8 (IV) DESCRIBES THE EQUIPMENT TO BE USED BY THE MEDIA
9 ORGANIZATION; AND

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

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

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

17 (I) THE IMPORTANCE OF PROMOTING PUBLIC ACCESS TO THE
18 JUDICIAL SYSTEM;

19 (II) THE PRIVACY RIGHTS AND SECURITY OF MINORS, WITNESSES,
20 AND JURORS; AND

21 (III) THE MAINTENANCE OF ORDERLY CONDUCT DURING THE
22 CRIMINAL PROCEEDING.

23 (4) THE PRESIDING JUDGE MAY:

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

27 (II) ORDER INTERESTED MEDIA ORGANIZATIONS TO MAKE
28 POOLING ARRANGEMENTS TO BROADCAST MEDIA COVERAGE TO PREVENT
29 INTERFERENCE WITH THE CONDUCT OF THE CRIMINAL PROCEEDING; AND

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

33 1. DENY A DEFENDANT THE RIGHT TO A FAIR AND
34 IMPARTIAL TRIAL;

