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E2 HB 1070/05 - JUD 6lr1131

(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:

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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.

(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 OR16 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 THE20PURPOSE OF PROVIDING MEDIA COVERAGE OR EDUCATIONAL RECORDINGS OF21CRIMINAL 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

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

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

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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 CRIMIN	AL PROCEEDING TO BE COVERED;
4 (II) IDENTIFIES THE DATES 5 THE MEDIA ORGANIZATION;	OF MEDIA COVERAGE REQUESTED BY
6 (III) DESCRIBES ANY POOLIN 7 ORGANIZATIONS;	NG ARRANGEMENT MADE BY MEDIA
8 (IV) DESCRIBES THE EQUIPM 9 ORGANIZATION; AND	IENT TO BE USED BY THE MEDIA
10(V)IDENTIFIES THE REPRES11ORGANIZATION WHO WILL BE PRESENT DURING TO	EENTATIVES OF THE MEDIA THE PROCEEDING.
 12 (2) ON RECEIPT OF A REQUEST TO 1 13 CLERK OF THE COURT SHALL GIVE PROMPT NOTION 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 PE 18 JUDICIAL SYSTEM;	ROMOTING PUBLIC ACCESS TO THE
19 (II) THE PRIVACY RIGHTS A 20 AND JURORS; AND	ND SECURITY OF MINORS, WITNESSES,
21(III)THE MAINTENANCE OF22CRIMINAL PROCEEDING.	ORDERLY CONDUCT DURING THE
23(4)THE PRESIDING JUDGE MAY:	
 (I) GRANT A REQUEST TO PROVIDE MEDIA COVERAGE THAT DOES NOT COMPLY WITH THE REQUIREMENTS SET FORTH IN PARAGRAPH (1) OF THIS 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 DEFEND34 IMPARTIAL TRIAL;	ANT THE RIGHT TO A FAIR AND

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12.SUBSTANTIALLY COMPROMISE THE CIVIL RIGHTS OR2SAFETY OF A PARTY INVOLVED IN THE CRIMINAL PROCEEDING; OR

3 3. DISRUPT THE ACCESS TO INFORMATION BY OTHER 4 NEWS-GATHERING ORGANIZATIONS.

5 (C) A PRESIDING JUDGE MAY NOT GRANT A REQUEST FOR MEDIA COVERAGE 6 OF:

7 (1) A CRIMINAL PROCEEDING CLOSED TO THE PUBLIC BY LAW OR 8 JUDICIAL ORDER;

9 (2) A GRAND JURY PROCEEDING;

10 (3) A JUVENILE PROCEEDING; OR

11(4)A CRIMINAL PROCEEDING RELATING TO A PROSECUTION OF A12SEXUAL CRIME UNDER TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE.

13 [(b)] (D) [Subsection (a) of this] THIS section does not apply to the use of 14 electronic or photographic equipment approved by the court:

15 (1) to take the testimony of a child victim under § 11-303 of this article;16 or

17 (2) to perpetuate a court record.

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

19 SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this

20 Act or the application thereof to any person or circumstance is held invalid for any

21 reason in a court of competent jurisdiction, the invalidity does not affect other

22 provisions or any other application of this Act which can be given effect without the

23 invalid provision or application, and for this purpose the provisions of this Act are

24 declared severable.

25 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take 26 effect October 1, 2006.

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