

HOUSE BILL 207

E2

71r1179

By: **Delegates Smigiel, Dwyer, George, Jennings, Jones, McComas,
McDonough, Myers, Riley, Shank, and Sossi**

Introduced and read first time: January 26, 2007

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Cameras in the Courtroom – Criminal Sentencing**
3 **Hearings**

4 FOR the purpose of repealing a prohibition against recording or broadcasting a
5 criminal sentencing hearing; establishing certain requirements for a media
6 organization's request to provide media coverage of a criminal sentencing
7 hearing; requiring the clerk of the court to provide notice to certain parties on
8 receipt of a request to provide media coverage; providing certain factors that a
9 presiding judge may consider in deciding to grant or deny the request to provide
10 media coverage; authorizing the presiding judge to grant a certain request to
11 provide media coverage; authorizing the presiding judge to make a certain
12 order; authorizing the presiding judge to limit certain media coverage, after
13 making a certain finding of fact on the record; prohibiting a presiding judge
14 from granting certain requests for media coverage; providing that a person who
15 violates this Act may be held in contempt of court; defining certain terms; and
16 generally relating to media coverage of criminal proceedings.

17 BY repealing and reenacting, with amendments,
18 Article – Criminal Procedure
19 Section 1–201
20 Annotated Code of Maryland
21 (2001 Volume and 2006 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
6 MEANINGS INDICATED.

7 (2) “CRIMINAL PROCEEDING” INCLUDES A CRIMINAL MATTER
8 HEARD IN OPEN COURT THAT THE PUBLIC IS ENTITLED TO ATTEND, INCLUDING
9 PRETRIAL, TRIAL, AND POST TRIAL PROCEDURES.

10 (3) “CRIMINAL SENTENCING HEARING” MEANS A COURT
11 PROCEEDING IN WHICH A CRIMINAL DEFENDANT IS SENTENCED AFTER
12 CONVICTION BY A JUDGE OR JURY.

13 (4) “MEDIA COVERAGE” MEANS VISUAL OR AUDIO RECORDINGS
14 OF CRIMINAL PROCEEDINGS BY A MEDIA ORGANIZATION.

15 (5) “MEDIA ORGANIZATION” INCLUDES A NEWS–GATHERING OR
16 EDUCATIONAL ENTITY THAT IS CAPABLE OF:

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

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

22 (6) “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
26 OVER A CRIMINAL PROCEEDING AT THE TIME A REQUEST FOR MEDIA COVERAGE
27 OF THE PROCEEDING WAS MADE, THE COUNTY ADMINISTRATIVE JUDGE OR THE

1 ADMINISTRATIVE JUDGE FOR THE DISTRICT WHERE THE CRIMINAL
2 PROCEEDING IS TO TAKE PLACE.

3 (7) “VISUAL OR AUDIO RECORDINGS” INCLUDES INFORMATION
4 OBTAINED THROUGH THE USE OF TELEVISION, RADIO, PHOTOGRAPHIC, OR
5 RECORDING EQUIPMENT PROVIDED BY THE COURT OR A MEDIA ORGANIZATION.

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

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

11 [(b)] (C) Subsection [(a)] (B) of this section does not apply to the use of
12 electronic or photographic equipment approved by the court:

13 (1) to take the testimony of a child victim under § 11-303 of this
14 article; [or]

15 (2) to perpetuate a court record[.]; OR

16 (3) TO RECORD OR BROADCAST MEDIA COVERAGE OF A CRIMINAL
17 SENTENCING HEARING IF, AT LEAST 24 HOURS BEFORE THE CRIMINAL
18 SENTENCING HEARING IS SCHEDULED TO BEGIN, THE MEDIA ORGANIZATION
19 FILES WITH THE CLERK OF THE COURT IN WHICH THE CRIMINAL SENTENCING
20 HEARING IS TO BE HELD, A WRITTEN REQUEST THAT:

21 (I) IDENTIFIES THE CRIMINAL SENTENCING HEARING TO
22 BE COVERED;

23 (II) IDENTIFIES THE DATES OF MEDIA COVERAGE
24 REQUESTED BY THE MEDIA ORGANIZATION;

25 (III) DESCRIBES ANY POOLING ARRANGEMENTS MADE BY
26 THE MEDIA ORGANIZATION;

27 (IV) DESCRIBES THE EQUIPMENT TO BE USED BY THE MEDIA
28 ORGANIZATION; AND

1 **(V) IDENTIFIES THE REPRESENTATIVES OF THE MEDIA**
2 **ORGANIZATION WHO WILL BE PRESENT DURING THE PROCEEDING.**

3 **(D) (1) ON RECEIPT OF A REQUEST TO PROVIDE MEDIA COVERAGE**
4 **UNDER SUBSECTION (C)(3) OF THIS SECTION, THE CLERK OF THE COURT SHALL**
5 **GIVE PROMPT NOTICE OF THE REQUEST TO EACH PARTY INVOLVED IN THE**
6 **CRIMINAL PROCEEDING.**

7 **(2) IN DECIDING TO GRANT OR DENY THE REQUEST, THE**
8 **PRESIDING JUDGE MAY CONSIDER:**

9 **(I) THE IMPORTANCE OF PROMOTING PUBLIC ACCESS TO**
10 **THE JUDICIAL SYSTEM;**

11 **(II) THE PRIVACY RIGHTS AND SECURITY OF MINORS,**
12 **WITNESSES, AND JURORS; AND**

13 **(III) THE MAINTENANCE OF ORDERLY CONDUCT DURING THE**
14 **CRIMINAL SENTENCING HEARING.**

15 **(3) THE PRESIDING JUDGE MAY:**

16 **(I) GRANT A REQUEST TO PROVIDE MEDIA COVERAGE THAT**
17 **COMPLIES WITH THE REQUIREMENTS SET FORTH IN SUBSECTION (C)(3) OF THIS**
18 **SECTION;**

19 **(II) ORDER INTERESTED MEDIA ORGANIZATIONS TO MAKE**
20 **POOLING ARRANGEMENTS TO BROADCAST MEDIA COVERAGE TO PREVENT**
21 **INTERFERENCE WITH THE CONDUCT OF THE CRIMINAL SENTENCING HEARING;**
22 **AND**

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

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

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

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

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

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

9 **(II) A CRIMINAL SENTENCING HEARING, IF THE REQUEST**
10 **FOR MEDIA COVERAGE DOES NOT COMPLY WITH THE REQUIREMENTS SET**
11 **FORTH IN SUBSECTION (C)(3) OF THIS SECTION;**

12 **(III) EXCEPT FOR A SENTENCING HEARING, ANY CRIMINAL**
13 **MATTER, INCLUDING A TRIAL, HEARING, MOTION, OR ARGUMENT;**

14 **(IV) A GRAND JURY PROCEEDING;**

15 **(V) A JUVENILE PROCEEDING; OR**

16 **(VI) A CRIMINAL PROCEEDING RELATING TO A**
17 **PROSECUTION OF A SEXUAL CRIME UNDER TITLE 3, SUBTITLE 3 OF THE**
18 **CRIMINAL LAW ARTICLE.**

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

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2007.