

HOUSE BILL 77

E2
HB 207/07 – JUD

(PRE-FILED)

8lr1006

By: **Delegate Smigiel**
Requested: November 8, 2007
Introduced and read first time: January 9, 2008
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 2007 Supplement)

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

24 **Article – Criminal Procedure**

25 1–201.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



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

3 (2) “CRIMINAL PROCEEDING” INCLUDES A CRIMINAL MATTER
4 HEARD IN OPEN COURT THAT THE PUBLIC IS ENTITLED TO ATTEND, INCLUDING
5 PRETRIAL, TRIAL, AND POSTTRIAL PROCEDURES.

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

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

11 (5) “MEDIA ORGANIZATION” INCLUDES A NEWS-GATHERING OR
12 EDUCATIONAL ENTITY THAT IS CAPABLE OF:

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

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

18 (6) “PRESIDING JUDGE” MEANS:

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

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

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

29 [(a)] (B) (1) Except as provided in subsection [(b)] (C) of this section, a
30 person may not record or broadcast any criminal matter, including a trial, hearing,
31 motion, or 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 **[(b)] (C)** Subsection **[(a)] (B)** of this section does not apply to the use of
4 electronic or photographic equipment approved by the court:

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

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

8 **(3) TO RECORD OR BROADCAST MEDIA COVERAGE OF A CRIMINAL**
9 **SENTENCING HEARING IF, AT LEAST 24 HOURS BEFORE THE CRIMINAL**
10 **SENTENCING HEARING IS SCHEDULED TO BEGIN, THE MEDIA ORGANIZATION**
11 **FILES WITH THE CLERK OF THE COURT IN WHICH THE CRIMINAL SENTENCING**
12 **HEARING IS TO BE HELD, A WRITTEN REQUEST THAT:**

13 **(I) IDENTIFIES THE CRIMINAL SENTENCING HEARING TO**
14 **BE COVERED;**

15 **(II) IDENTIFIES THE DATES OF MEDIA COVERAGE**
16 **REQUESTED BY THE MEDIA ORGANIZATION;**

17 **(III) DESCRIBES ANY POOLING ARRANGEMENTS MADE BY**
18 **THE MEDIA ORGANIZATION;**

19 **(IV) DESCRIBES THE EQUIPMENT TO BE USED BY THE MEDIA**
20 **ORGANIZATION; AND**

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

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

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

29 **(I) THE IMPORTANCE OF PROMOTING PUBLIC ACCESS TO**
30 **THE JUDICIAL SYSTEM;**

1 (II) THE PRIVACY RIGHTS AND SECURITY OF MINORS,
2 WITNESSES, AND JURORS; AND

3 (III) THE MAINTENANCE OF ORDERLY CONDUCT DURING THE
4 CRIMINAL SENTENCING HEARING.

5 (3) THE PRESIDING JUDGE MAY:

6 (I) GRANT A REQUEST TO PROVIDE MEDIA COVERAGE THAT
7 COMPLIES WITH THE REQUIREMENTS SET FORTH IN SUBSECTION (C)(3) OF THIS
8 SECTION;

9 (II) ORDER INTERESTED MEDIA ORGANIZATIONS TO MAKE
10 POOLING ARRANGEMENTS TO BROADCAST MEDIA COVERAGE TO PREVENT
11 INTERFERENCE WITH THE CONDUCT OF THE CRIMINAL SENTENCING HEARING;
12 AND

13 (III) LIMIT MEDIA COVERAGE IN ANY MANNER AT ANY TIME
14 BEFORE OR DURING THE CRIMINAL SENTENCING HEARING AFTER MAKING A
15 FINDING OF FACT ON THE RECORD THAT, WITHOUT THE LIMITATION, THE
16 MEDIA COVERAGE WOULD:

17 1. DENY A DEFENDANT THE RIGHT TO A FAIR AND
18 IMPARTIAL TRIAL;

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

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

23 (4) A PRESIDING JUDGE MAY NOT GRANT A REQUEST FOR MEDIA
24 COVERAGE OF:

25 (I) A CRIMINAL PROCEEDING CLOSED TO THE PUBLIC BY
26 LAW OR JUDICIAL ORDER;

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

30 (III) EXCEPT FOR A SENTENCING HEARING, ANY CRIMINAL
31 MATTER, INCLUDING A TRIAL, HEARING, MOTION, OR ARGUMENT;

1 (IV) A GRAND JURY PROCEEDING;

2 (V) A JUVENILE PROCEEDING; OR

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

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

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2008.