

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 77

(Delegate Smigiel)

Judiciary

Criminal Procedure - Cameras in the Courtroom - Criminal Sentencing Hearings

This bill repeals a prohibition against recording or broadcasting a “criminal sentencing hearing.” A media organization wishing to record or broadcast coverage of such a proceeding must file a request with the clerk of the court. The presiding judge may then grant, deny, or limit this request based on specified considerations.

Fiscal Summary

State Effect: Any costs related to training judges and court personnel on managing hearings with cameras present could be handled with existing resources. The bill does not require courts to provide equipment to media organizations.

Local Effect: Any costs related to training judges and court personnel on managing hearings with cameras present could be handled with existing resources. The bill does not require courts to provide equipment to media organizations.

Small Business Effect: None.

Analysis

Bill Summary: The bill permits the visual or audio recording of criminal sentencing hearings under specified conditions. In order to record or broadcast such a hearing, a media organization must submit to the clerk of the court, at least 24 hours before the hearing, a request that:

- identifies the hearing to be covered;
- identifies the dates of media coverage requested;
- describes any pooling arrangements made by the media organizations;
- describes the equipment to be used; and
- identifies the representatives of the media organization who will be present during the proceeding.

On receipt of this request, the clerk shall give prompt notice of the request to all parties involved in the proceeding.

In deciding to grant or deny the request, the presiding judge may consider the importance of promoting public access to the judicial system, the privacy and security of minors, witnesses, and jurors, and the maintenance of orderly conduct during the proceeding. The judge may grant the request, order interested media organizations to make pooling arrangements, and/or limit media in any manner at any time on a finding of fact that, without limitation, the coverage would:

- deny a defendant the right to a fair and impartial trial;
- substantially compromise the civil rights or safety of a party involved in the proceeding; or
- disrupt access to information by other news-gathering organizations.

The bill specifies that a judge may not grant a request for coverage of:

- a criminal proceeding closed to the public by law or judicial order;
- a sentencing hearing if the request does not comply with the requirements set forth in the bill;
- any criminal matter other than a sentencing hearing;
- a grand jury proceeding;
- a juvenile proceeding; or
- a proceeding related to the prosecution of certain specified sexual crimes.

Current Law: Recording of criminal proceedings, either by television, radio, photograph, or other recording equipment, is generally prohibited by statute. Exceptions include recording done to take the testimony of a victim of child abuse or to perpetuate a court record. The exceptions are inapplicable to media organizations.

Recording of civil proceedings is permitted in limited circumstances under Maryland Rule 16-109. A request for media coverage of a civil proceeding must be approved by all parties, and is limited to one portable camera from each media organization in trial court proceedings, and two cameras for each media organization in appellate proceedings. Requests for such media coverage must be made at least five days before the beginning of the proceeding.

Background: According to the National Center for State Courts, at least 37 states allow some media coverage in criminal trials or sentencing hearings. State rules vary widely as to the prohibitions on coverage (*e.g.*, many states require the consent of parties) and the extent to which trial judges may use discretion in allowing coverage.

Additional Information

Prior Introductions: HB 207 of 2007, a substantially similar bill, received an unfavorable report from the House Judiciary Committee. HB 81 of 2006, a similar bill permitting recording of criminal proceedings generally, was given an unfavorable report by Judiciary.

Cross File: None.

Information Source(s): State's Attorneys' Association, Judiciary (Administrative Office of the Courts), National Center for State Courts, Department of Legislative Services

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