

HOUSE BILL 856

E2
HB 77/08 – JUD

9lr0341

By: **Delegates Smigiel, Barnes, Carter, Conaway, Dwyer, Frank, Jennings, Kramer, McComas, McConkey, Ramirez, and Valderrama**
Introduced and read first time: February 12, 2009
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Media Coverage in the Courtroom – Criminal**
3 **Sentencing 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 a presiding judge to grant a certain request to
11 provide media coverage; authorizing a presiding judge to make a certain order;
12 authorizing a presiding judge to limit certain media coverage after making a
13 certain finding of fact on the record; prohibiting a presiding judge from granting
14 certain requests for media coverage; requiring a presiding judge on a request of
15 a witness, to order that media coverage of a criminal sentencing hearing not
16 include a visual or audio recording or broadcast of the witness; providing that a
17 person who violates this Act may be held in contempt of court; defining certain
18 terms; and generally relating to media coverage of criminal sentencing
19 hearings.

20 BY repealing and reenacting, with amendments,
21 Article – Criminal Procedure
22 Section 1–201
23 Annotated Code of Maryland
24 (2008 Replacement Volume)

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

27 **Article – Criminal Procedure**

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



1 1-201.

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

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

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

10 (4) "MEDIA COVERAGE" MEANS VISUAL OR AUDIO RECORDINGS
11 OF CRIMINAL PROCEEDINGS BY A MEDIA ORGANIZATION.

12 (5) "MEDIA ORGANIZATION" INCLUDES A NEWS-GATHERING OR
13 EDUCATIONAL ENTITY THAT IS CAPABLE OF:

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

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

19 (6) "PRESIDING JUDGE" MEANS:

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

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

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

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

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

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

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

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

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

16 (I) **IDENTIFIES THE CRIMINAL SENTENCING HEARING TO**
17 **BE COVERED;**

18 (II) **IDENTIFIES THE DATES OF MEDIA COVERAGE**
19 **REQUESTED BY THE MEDIA ORGANIZATION;**

20 (III) **DESCRIBES ANY POOLING ARRANGEMENTS MADE BY**
21 **THE MEDIA ORGANIZATION;**

22 (IV) **DESCRIBES THE EQUIPMENT TO BE USED BY THE MEDIA**
23 **ORGANIZATION; AND**

24 (V) **IDENTIFIES THE REPRESENTATIVES OF THE MEDIA**
25 **ORGANIZATION WHO WILL BE PRESENT DURING THE CRIMINAL SENTENCING**
26 **HEARING.**

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

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

1 (I) THE IMPORTANCE OF PROMOTING PUBLIC ACCESS TO
2 THE JUDICIAL SYSTEM;

3 (II) THE PRIVACY RIGHTS AND SECURITY OF MINORS,
4 WITNESSES, AND JURORS; AND

5 (III) THE MAINTENANCE OF ORDERLY CONDUCT DURING THE
6 CRIMINAL SENTENCING HEARING.

7 (3) A PRESIDING JUDGE MAY:

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

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

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

19 1. DENY A DEFENDANT THE RIGHT TO A FAIR AND
20 IMPARTIAL TRIAL;

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

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

25 (4) A PRESIDING JUDGE MAY NOT GRANT A REQUEST FOR MEDIA
26 COVERAGE OF:

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

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

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

3 (IV) A GRAND JURY PROCEEDING;

4 (V) A JUVENILE PROCEEDING; OR

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

8 (5) ON A REQUEST OF A WITNESS, A PRESIDING JUDGE SHALL
9 ORDER THAT MEDIA COVERAGE OF A CRIMINAL SENTENCING HEARING NOT
10 INCLUDE A VISUAL OR AUDIO RECORDING OR BROADCAST OF THE WITNESS.

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

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2009.