

# HOUSE BILL 43

E2  
HB 81/16 – JUD

(PRE-FILED)

7lr0386

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By: **Delegate Conaway**  
Requested: June 24, 2016  
Introduced and read first time: January 11, 2017  
Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

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

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

17 BY repealing and reenacting, with amendments,  
18 Article – Criminal Procedure  
19 Section 1–201  
20 Annotated Code of Maryland  
21 (2008 Replacement Volume and 2016 Supplement)

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

24 **Article – Criminal Procedure**

25 1–201.

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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 MEANINGS**  
2 **INDICATED.**

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

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

9           **(4) “MEDIA COVERAGE” MEANS VISUAL OR AUDIO RECORDINGS OF**  
10 **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 OR**  
14 **AUDIO EQUIPMENT PROVIDED BY THE COURT; OR**

15                   **(II) PROVIDING ITS OWN VISUAL OR AUDIO EQUIPMENT FOR THE**  
16 **PURPOSE OF PROVIDING MEDIA COVERAGE OR EDUCATIONAL RECORDINGS OF**  
17 **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 OVER**  
22 **A CRIMINAL PROCEEDING AT THE TIME A REQUEST FOR MEDIA COVERAGE OF THE**  
23 **PROCEEDING WAS MADE, THE COUNTY ADMINISTRATIVE JUDGE OR THE**  
24 **ADMINISTRATIVE JUDGE FOR THE DISTRICT WHERE THE CRIMINAL PROCEEDING IS**  
25 **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 person**  
30 **may not record or broadcast any criminal matter, including a trial, hearing, motion, or**  
31 **argument, that is held in trial court or before a grand jury.**

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

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

5           (1) to take the testimony of a child victim under § 11–303 of this article;  
6 **[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 SENTENCING**  
10 **HEARING IS SCHEDULED TO BEGIN, THE MEDIA ORGANIZATION FILES WITH THE**  
11 **CLERK OF THE COURT IN WHICH THE CRIMINAL SENTENCING HEARING IS TO BE**  
12 **HELD A WRITTEN REQUEST THAT:**

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

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

17                           **(III) DESCRIBES ANY POOLING ARRANGEMENTS MADE BY THE**  
18 **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 PRESIDING**  
28 **JUDGE MAY CONSIDER:**

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

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

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

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

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

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

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

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

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

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

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

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

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

6           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
7   October 1, 2017.