

Department of Legislative Services  
Maryland General Assembly  
2023 Session

FISCAL AND POLICY NOTE  
Third Reader - Revised

House Bill 1143  
Judiciary

(Delegate Moon, *et al.*)

Judicial Proceedings

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Courts - Recordings of Proceedings - Access

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This bill requires the authorized custodian of an audio recording of an appellate court, circuit court, or District Court proceeding to make available a copy of the recording to any person on written request. Unless otherwise ordered by the administrative judge of a county, the authorized custodian must ensure that any portion of the recording that the court has ordered shielded from public access and inspection is redacted prior to providing a copy of the recording. However, the bill specifies individuals to whom, on written request, a recording of a closed court proceeding (or otherwise unredacted recording, as specified) must be made available.

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Fiscal Summary

**State Effect:** This bill is not anticipated to materially affect State operations and finances, as discussed below.

**Local Effect:** This bill is not anticipated to materially affect local government operations and finances, as discussed below.

**Small Business Effect:** None.

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Analysis

**Current Law:**

*Public Access to Recordings – In General*

The Maryland Rules specify when the authorized custodian of an official audio or audio-video recording of a court proceeding in the District Court (including before a

District Court commissioner) and the circuit courts must make a copy available to any person upon written request. Generally, the authorized custodian must provide a copy of the audio recording of a District Court or circuit court proceeding (or, if practicable, the *audio portion* of an audio-video recording of a circuit court proceeding) upon written request. Unless waived by the court, a person must pay reasonable costs to the court for making the copy.

In general, audio recordings (and in most instances, audio-video recordings) of appellate court proceedings are archived and available on the Judiciary's website.

On written request, the authorized custodian of an audio-video recording of a circuit court proceeding must permit a person to listen to and view the recording at a time and place designated by the court and under its supervision. A person listening to and viewing the recording may not make a copy or possess a device that, by itself, or in combination with any other device, can make a copy.

#### *Exceptions to Public Access to Audio and Audio-video Recordings*

A recording of a District Court or circuit court proceeding that is closed pursuant to law (or as otherwise provided in the Maryland Rules or ordered by the court), is not available to the public. If a portion of a proceeding involves placing on the record matters that, on motion, the court finds should and lawfully may be shielded from public access and inspection, the court must direct appropriate safeguards to be placed on that portion of the recording, as specified.

In general, unless otherwise ordered by the district administrative judge or county administrative judge, the custodian of a recording must assure that all portions of the recording that the court has directed to be safeguarded from public access and inspection are redacted from any copy of a recording made available to the public.

#### *Availability of Recordings for Specified Individuals*

On written request, the custodian must make available to the following persons a copy of the audio recording (or if practicable, the audio portion of an audio-video recording or the audio-video recording, as specified) of a District Court or circuit court proceeding closed pursuant to law or from which safeguarded portions have not been redacted:

- the Chief Judge of the Court of Appeals (now Chief Justice of the Supreme Court of Maryland);
- the Chief Judge of the District Court or county administrative judge, as appropriate;
- the district administrative judge or circuit administrative judge, as appropriate, having supervisory authority over the court;

- the presiding judge in the case;
- the Commission on Judicial Disabilities or, at its discretion, investigative counsel;
- bar counsel;
- a party to the proceeding or the attorney for a party, unless otherwise ordered by the court;
- a stenographer or transcription service designated by the court for the purpose of preparing an official transcript of the proceeding, as specified; and
- any other person authorized by the district administrative judge or county administrative judge, as appropriate.

Also, the audio-visual recording of a circuit court proceeding may be made available upon request to the Court of Appeals (now the Supreme Court of Maryland) or the Court of Special Appeals (now the Appellate Court of Maryland), as specified.

**State/Local Fiscal Effect:** The Judiciary advises that the bill generally codifies rules and practices that already exist. The Judiciary further notes, however, that the bill does not specifically address whether costs may be imposed on individuals who request recordings and that expenditures may increase (and revenues may decrease) to the extent that the bill is intended to prohibit courts from charging costs for recordings. As the bill does not specifically prohibit costs from being assessed, the Department of Legislative Services assumes that courts may continue to charge a reasonable fee for a copy of a recording under the bill.

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### **Additional Information**

**Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Department of Legislative Services

**Fiscal Note History:**  
js/jkb

First Reader - March 7, 2023

Third Reader - March 24, 2023

Revised - Amendment(s) - March 24, 2023

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