



**PAUL DeWOLFE**  
PUBLIC DEFENDER

**KEITH LOTRIDGE**  
DEPUTY PUBLIC DEFENDER

**MELISSA ROTHSTEIN**  
DIRECTOR OF POLICY AND DEVELOPMENT

**KRYSTAL WILLIAMS**  
DIRECTOR OF GOVERNMENT RELATIONS DIVISION

**ELIZABETH HILLIARD**  
ASSISTANT DIRECTOR OF GOVERNMENT RELATIONS DIVISION

## **POSITION ON PROPOSED LEGISLATION**

**BILL: HB 810** Criminal Procedure - Cameras in the Courtroom - Criminal Sentencing Hearings

**FROM: Maryland Office of the Public Defender**

**POSITION: Unfavorable**

**DATE: February 11, 2022**

The Maryland Office of the Public Defender respectfully requests that this Committee issue an unfavorable report on HB 810 for the following reasons:

House Bill 810 generally aims to repeal the prohibition against recording or broadcasting of a “criminal sentencing hearing.”

According to the 2008 report provided by the Committee to Study Extended Media Coverage, a Subcommittee of the Legislative Committee of the Maryland Judicial Conference, media coverage can adversely impact trial participants, interfere with the fact-finding process, and impair public confidence in the criminal justice system.<sup>1</sup> The committee determined unanimously that the putative benefits of extended electronic media coverage are illusory, while the adverse impacts on the criminal justice process are real. Additionally, it was concluded unanimously that the current statutory ban on cameras in criminal trial courts should remain in effect.

The Committee agreed in principle with the media’s contention that broadcast coverage has the potential to educate the public. In practice, however, television coverage of court proceedings has most often been used to entertain rather than to educate its viewers. HB 810 and its focus on sentencing proceedings, would further encourage sensationalized media coverage and not informational coverage.

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<sup>1</sup> <https://www.mdcourts.gov/sites/default/files/import/publications/pdfs/mediacoveragereport08.pdf>

Media broadcasting of sentencing proceedings would allow for the exposure of sensitive information that can have serious privacy implications for persons impacted by criminal proceedings on both sides. The nature of sentencing proceedings is highly emotional and often victims and their families are asked to provide victim impact statements, which can include information regarding the victim's medical and psychological information. Moreover, it is often critical that a defense attorney provide the sentencing judge with sensitive, personal information about the person being sentenced and provide statements from their friends and families to provide the sentencing judge with any possible mitigation and explanation.

Moreover, broadcasting sentencing proceedings impedes a person's ability to adequately expunge their record. Under Maryland law, numerous offenders are able to expunge or remove their criminal convictions from public inspection. A significant reason for this ability is to promote the potential for future success and give persons involved in the criminal system a second chance. If that person's sentencing hearing had been broadcasted to the public, however, the Court would be unable to control its dissemination and could not ensure its removal from public inspection.

Broadcast coverage sensationalizes and distorts the criminal process, often at the expense of minorities. A 2002 study published in the Harvard International Journal of Press & Politics concluded that television news tends to focus on the violent and the unusual, rather than cases of broad community import; that television coverage consists of short and dramatic clips, and is less likely to include informational content than newspapers; and that members of minority communities are more likely to be covered by the media as perpetrators of crime than are whites, particularly when the victims are white.<sup>2</sup> For example, according to averages of arrest statistics from the New York City Police Department from 2011-2016, African Americans represented 54% of murder arrests, 55% of theft arrests, and 49% of assault arrests; but between August 18 and December 31, 2014, 74% of murders, 84% of thefts, and 73% of assaults covered by the four major broadcast television stations in New York City involved African American suspects.<sup>3</sup> This

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<sup>2</sup> Vinson, C. Danielle & John S. Ertter, Entertainment or Education, How Do the Media Cover the Courts?, Harvard Intl. J. Press/Politics 7:80 (Fall 2002).

<sup>3</sup> Daniel Angster & Salvatore Colleluori, New York City Television Stations Continue Disproportionate Coverage of Black Crime (Mar. 23, 2015, 9:34 AM).

disproportional, and racially biased media coverage has been noted elsewhere throughout the country.<sup>4</sup>

Further, the approval of HB 810 encroaches on judicial authority to regulate court procedure. It inappropriately attempts to dictate courtroom procedure by statute, rather than through the Maryland Rules of Practice and Procedure, the manner in which the Judiciary traditionally exercises its constitutional prerogative to regulate day-to-day operations.

Finally, similar to its prior version, HB 1376, this bill imposes on court clerks the burden to notify parties (i.e., the State and the defendant, but not the victim or the victim's family) of the media's interest in broadcasting the proceeding, a burden that should be borne by the media. Additionally, it does not address commercial media organizations to reimburse the court and/or sheriff for expenses incurred as a result of their coverage, including overtime for security and technical staff needed on short notice before and after regular court hours while equipment is being set up or taken down, or for the installation of minimally intrusive state-of-the-art equipment that would allow the court to monitor the audio-visual feed. Furthermore, time frames have not been addressed; court schedules are set weeks and months in advance. Even if it were possible to accomplish all of these tasks in 24 hours, it would require multiple court employees to drop everything to meet the deadline. This would result in considerable expense and inconvenience to parties, witnesses, jurors, and attorneys involved in other scheduled proceedings whose matters are pushed aside to meet the legislatively imposed deadline.

For the foregoing reasons, the Maryland Office of Public Defender urges an unfavorable report on House Bill 0810.

Submitted by: **Government Relations Division of the Maryland Office of the Public Defender.**

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<sup>4</sup> See also Trina T. Creighton, et al, Coverage of Black Versus White Males in Local Television Lead Stories, 4(8) J. Mass Comm'n Journalism 216, at 4 (2014) (a study of news coverage by Omaha's four local television affiliates over a 3-month period in 2012 showed that 69% of crime-related lead stories featured an African American male as the perpetrator, while African American males represented only 39% of arrests over the same time period).