

MDDC Support HB 810.pdf

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Maryland | Delaware | DC Press Association

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To: Judiciary Committee

From: Rebecca Snyder, Executive Director, MDDC Press Association

Date: February 15, 2022

Re: **HB 810 - SUPPORT**

The Maryland-Delaware-District of Columbia Press Association represents a diverse membership of news media organizations, from large metro dailies like the Washington Post and the Baltimore Sun, to hometown newspapers such as The Annapolis Capital and the Maryland Gazette to publications such as The Daily Record, the Baltimore Times, and online-only publications such as MarylandReporter.com and Baltimore Brew.

The Press Association is pleased to support HB 1376, which would allow news media to video criminal sentencing hearings under specific circumstances by filing a written request with the clerk of the court.

In a 2016 report by the Federal Judicial Center, "Video Recording Courtroom Proceedings in United States District Courts: Report on a Pilot Project", ([http://www.fjc.gov/public/pdf.nsf/lookup/Cameras-in-Courts-Project-Report-2016.pdf/\\$file/Cameras-in-Courts-Project-Report-2016.pdf](http://www.fjc.gov/public/pdf.nsf/lookup/Cameras-in-Courts-Project-Report-2016.pdf/$file/Cameras-in-Courts-Project-Report-2016.pdf)) researchers surveyed bench, bar and staff to understand the effects of a pilot program for video recording. News media were allowed to record and broadcast court proceedings in several of the pilot sites. Survey respondents said that news media did not pose disruptions to proceedings (p Appendix F-14, F-15).

This is important to our members because the ways our members share the news is changing. In addition to the anchor printed publications, our members have websites and tv stations that provide different opportunities to engage audiences and inform the public. The ability to video and broadcast news-worthy criminal sentencing will aid in the public's knowledge and understanding of important cases and issues.

The Press Association urges a favorable report.



**We believe a strong news media is
central to a strong and open society.**

Read local news from around the region at www.mddcnews.com

MOPD Oppose HB 810.pdf

Uploaded by: Elizabeth Hilliard

Position: UNF



PAUL DeWOLFE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

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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.¹ 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.

¹ <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.² 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.³ This

² 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).

³ 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.⁴

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.**

⁴ 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).

HB 810 - Cameras in the Courtroom.pdf

Uploaded by: John Cox

Position: UNF

Bill Number: HB 810
John P. Cox, Deputy State's Attorney for Baltimore County
Opposed

WRITTEN TESTIMONY OF JOHN P. COX,
DEPUTY STATE'S ATTORNEY FOR BALTIMORE COUNTY,
IN OPPOSITION OF HOUSE BILL 810
CAMERAS IN THE COURTROOM

I write in opposition to House Bill 810 that allows cameras in the courtroom during sentencing proceedings. While I acknowledge that House Bill 810 was carefully drafted I believe even with these restrictive guidelines allowing cameras at sentencing hearings will be intimidating to victims, victim's families and witnesses.

To be sure, the media will only want to cover the most sensational of cases. For example cases in which a grieving family member of a murder victim will be giving victim impact testimony to the sentencing judge about how the crime has affected them. During most of these impact statements people are usually crying and often revealing very intimate matters about their private life. While the media may argue that protections can be put in place, these victims and family members should not even have to face the possibility that what they say in court will be broadcast on the evening news for all to hear and see. They have been through enough. Broadcasting these images will also reveal their identity to the world. Many victims of crime often try to keep their "victim-status" private, as should be their right. While House Bill 810 does permit a victim to object, the very existence of that possibility will cause great consternation in victims. Seeing other cases broadcast on the media may also discourage victims from pursuing their case.

In recent years we have had several disruptive sentencing hearings in gang related cases. One example is the Timothy Rawlings sentencing for a gang related murder. Several older, established gang members showed up for court. They wore gang colors, flashed gang signs and were disruptive of court proceedings. They had to be removed from the courtroom. This sentencing was already a circus and a security nightmare. If media coverage is added it will cause gang members to become more disruptive and outrageous to draw attention to themselves.

Furthermore, many prosecutors and judges will not want their own images displayed to the world. Especially when sentencing in gang cases and other violent crimes where associates of the defendant will be able to take screen shots of the broadcast images and post them all over the internet. It is one thing for people in one courtroom, in one case, to know what you look like; but if this were permitted your image is only a few clicks away from being known to the world.

Finally, while I have tremendous respect for the commercial media in Maryland and know they uphold very important journalist ethics, there are a number of bloggers and others who may not follow the same standards who could send out more personal information on victims and family members. Being the victim of crime is already a difficult matter. Let's not make it more so.

I ask you to give an unfavorable vote to House Bill 810.

HB 810.pdf

Uploaded by: Sara Elalamy

Position: UNF

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Joseph M. Getty
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: House Judiciary Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 810
Criminal Procedure – Cameras in the Courtroom – Criminal
Sentencing Hearings
DATE: February 9, 2022
(2/15)
POSITION: Oppose

The Maryland Judiciary opposes House Bill 810 for the following reasons:

- I. Broadcast coverage of criminal proceedings discourages victims and witnesses from participating in the criminal justice process;
- II. Broadcast coverage sensationalizes and distorts the criminal justice process, often at the expense of minorities; and
- III. House Bill 810 is an unworkable encroachment upon the authority of the judicial branch to regulate courtroom procedure to ensure the fair and orderly administration of justice.

Broadcast coverage of criminal proceedings discourages victims and witnesses from participating in the criminal justice process. In 2008, the Judiciary completed a six-month investigation into whether electronic media should be allowed in criminal courtrooms. At its public hearing, all witnesses representing participants in the criminal justice process (the Maryland State’s Attorneys Association, the Office of the Public Defender, the Maryland State Bar Association, and the Maryland Crime Victims Resource Center) opposed allowing television coverage of Maryland criminal proceedings. **The fact that prosecutors, the defense bar, victims’ rights advocates, and the Judiciary were and continue to be opposed to broadcast coverage of criminal proceedings is compelling.**

HB 810 concerns the sentencing hearings, where the prospect of victim exploitation is particularly acute. Such proceedings are highly emotional affairs where victims and their families provide “victim impact statements” that include sensitive medical and psychological information. Defendants also offer testimony regarding equally personal

details of trauma in their lives in mitigation or to establish their prospect for rehabilitation. **These intimate details of humiliation and suffering have no educational value and televising them can serve only to satisfy a prurient interest in the misfortune of others for the commercial benefit of broadcast media organizations.** This was of grave concern to prosecutors and victims' rights advocates for cases involving homicide and other crimes of violence, precisely the types of cases that receive the most media attention. There is nothing in HB 810 that would prevent broadcast of testimony of victims' family members, often the only witnesses who testify where the actual victim is young is deceased or incapacitated. Their only protection is to refuse to participate at the sentencing hearing, which is the last thing the community needs right now

WBFF/Fox 45 in Baltimore has reported that in 2018 **[“Baltimore City prosecutors dismissed over 300 cases because victims and witnesses would not work with them on a case.”](#)** The fact that their testimony might be broadcast and instantly go viral on social media would add to the reluctance of victims and witnesses to report and help prosecute violent crime in Maryland, and add considerably to the nearly \$4 million dollars spent in the City to protect those who do.

The chilling effect of television on victim and witness participation feared by prosecutors and victim advocates has been demonstrated in several studies. A Marist Institute poll of New York voters conducted before the New York Legislature ended its experiment with cameras in its courts in 1996 revealed that **54% of the respondents (including 64% of female respondents) would be less willing to testify if cameras were present, and 68% would not want their trial televised if a victim of a crime.** Marist Institute for Public Opinion, *Television Cameras in the Courts* (1996). See also National Center for Victims of Crime, *Snitches Get Stitches: Youth, Gangs and Witness Intimidation in Massachusetts* (2007)(two-thirds of the 600 teens polled cited fear of retaliation as the primary reason that people refuse to report gang-related crime to the police).

Broadcast Coverage Sensationalizes and Distorts the Criminal Process, Often at the Expense of Minorities. Other research confirms that television coverage of criminal proceedings is driven by a commercial desire to entertain rather than educate viewers, and distorts rather than reports on the criminal justice system. 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 with little explanatory content and that **members of minority communities are far more likely to be covered by the media as perpetrators of crime than are whites, particularly when the victims are white.** Citations to these studies can be found in **[the Report of the Committee to Study Extended Media Coverage of Criminal Trial Proceedings in Maryland \(February 1, 2008\).](#)** On the question of racial disparities in television coverage:

According to averages of arrest statistics from the [NYPD] for the past four years, 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 [citation omitted] Similar data has been collected in other regions. ...[See] 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).

S.Ct. Minn., ADM09-8009 (8/12/15), at D10-12, Page, J., dissenting (footnotes omitted)

As television coverage dangerously distorts, rather than accurately reports what actually happens in our communities and courtrooms, the current ban should remain in effect.

House Bill 810 Encroaches on Judicial Authority to Regulate Court Procedure.

House Bill 810 inappropriately attempts to dictate courtroom procedure by statute, rather than through the Maryland Rules of Practice and Procedure by which the Judiciary traditionally exercises its constitutional prerogative to regulate day to day operations. House Bill 810 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. Further, the proposed **24-hour notice period is unworkable and patently insufficient to: (1) provide actual notice of the request to the parties; (2) afford the parties time to consult witnesses, victims, and clients to determine whether there are grounds for seeking to limit coverage; (3) enable the parties to notify the court of their position; (4) allow the court to schedule and then hold a hearing; (5) allow the judge time to deliberate and make findings of facts as required by the bill, and then draft and enter an appropriate order; (6) make arrangements for access to the courtroom to set up the broadcast equipment ; (7) establish pooling arrangements that would be required if multiple media outlets that want to televise the proceedings; and (8) test the equipment to ensure that any limitations set by the court are honored.**

Even if it were possible to accomplish 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 whose matters are pushed aside in order to meet the arbitrarily imposed timeline. HB 810, therefore, is a prescription for costly delay and disruption that will have a rippling effect throughout the courthouse.

The proposed legislation also contains no provisions to protect the identity or image of jurors or spectators and provides no authority for a judge to deny requests for coverage if it is not technologically feasible, a significant problem in many courtrooms as outlined in the Administrative Office of the Courts' explanation of the fiscal impact of House Bill 810.

It is respectfully submitted that if the concerns of law enforcement, victims, the organized bar, and the judicial branch are to be ignored, then the manner in which television coverage is to be regulated and implemented should continue to be governed by the Maryland Rules of Practice and Procedure. [Rule 16-601 et seq.](#) currently governs electronic coverage of civil proceedings. Matters covered by Rule 16-601 et seq, include, for example, limitations on coverage of attorney-client communications and side-bar conferences, prohibitions on broadcasting from the courtroom during recesses, and protection against delays to accommodate electronic coverage. This rule, like all court rules, was enacted after extensive study and public comment that allowed for consideration of all competing interests and should continue to govern any televised proceedings in Maryland courts.

There is also nothing in the bill to require commercial media organizations to reimburse the court and/or sheriff for their expenses, 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. Many of these and other important details are addressed in the Maryland Rules, the most appropriate vehicle for governing court procedures.

The Maryland Judiciary is opposed to HB 810.

cc. Hon. Nicholas Kipke
Judicial Council
Legislative Committee
Kelley O'Connor