



**MSBA Main Office**  
520 West Fayette Street  
Baltimore, MD 21201  
410-685-7878 | msba.org

**Annapolis Office**  
200 Duke of Gloucester Street  
Annapolis, MD 21401  
410-269-6464 | msba.org

## MEMORANDUM

To: Members of the Senate Judicial Proceedings Committee

From: Maryland State Bar Association (MSBA)  
Shaoli Katana, Esq., Advocacy Director

Subject: Senate Bill 43 - Court Proceedings - Remote Public Access

Date: January 24, 2023

Position: Oppose

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The Maryland State Bar Association (MSBA) respectfully opposes Senate **Bill 43 - Court Proceedings - Remote Public Access**. SB43 requires each court in the State to provide remote audio-visual access to all public court proceedings, unless a proceeding is deemed closed, confidential, or restricted by federal or State law; and authorizing a presiding judge to prohibit a certain broadcast under certain circumstances.

The MSBA represents more attorneys than any other organization across the State in all practice areas. MSBA serves as the voice of Maryland's legal profession. Through its Laws Committee and various practice-specific sections, MSBA monitors and takes positions on legislation of importance to the legal profession.

The MSBA supports the bill's goal of transparency and having open doors to the courthouse. The public has access to most in-person, open court hearings and has had increased access to remote hearings as well. The Judiciary currently broadcasts and archives arguments from the Appellate Court of Maryland and the Supreme Court of



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Maryland. The Judiciary has also worked diligently throughout the pandemic to modernize and provide more remote access for hearings, both in the District and Circuit Courts, and to provide public access. These matters are already covered by Md. Rule 2-804(g) and Md. Rule 3-513.1(b): “[i]f a proceeding that otherwise would be open to the public is conducted entirely by remote electronic means, the court shall ensure that members of the public shall have the ability to listen to the non-redactable portions of the proceeding during the course of the proceeding through remote electronic means.”

The bill raises concerns about separation of powers and infringing on judicial authority, given the constitutional directive of the Judiciary to manage public access to court proceedings. The Judiciary is actively working towards greater public access to court hearings and remains in the best position to lead methods and procedures for remote access across all courts, considering the range of technology and available funds to provide remote access in courthouses across the state.

The MSBA notes that the Delivery of Legal Services, serving under our partner the Maryland Access to Justice Commission, files testimony in support of this bill, focused on increased opportunities for advocates to gain a better insight into the administration of justice and barriers to accessing justice. Their goals and perspective align with the MSBA's support for transparency and public access and we appreciate their testimony.

MSBA has concerns with the details of this legislation and respectfully requests an unfavorable report.

For additional information, please feel free to contact Shaoli Katana at MSBA at [shaoli@msba.org](mailto:shaoli@msba.org).