



To: Members of the Maryland General Assembly
Attn: Delegate David Moon
Re: In Support of legislation HB133/SB043
From: Progressive Maryland

Dear Members of the Maryland General Assembly,

Progressive Maryland would like to affirm our position in support of HB133/SB043, requiring that every court provide remote audio-visual access to all public court proceedings. The public must have virtual access to tune into court proceedings for criminal cases for two main reasons: transparency and justice. We are asking our elected officials in the Maryland General Assembly to vote in favor of this bill.

The Constitutional right of public access to criminal court proceedings is a common law right that has been recognized by the courts. Despite the recognition of the right of public access, there are still many challenges to ensuring that the public has access to criminal court proceedings. For example, proceedings involving juveniles are typically closed to the public by the court's decision. Another example is when a defendant requests a closed hearing because they believe that the publicity surrounding the case would prevent them from receiving a fair trial. In other cases, proceedings are simply not publicized due to the court's failure in providing adequate notice to the public. Along with public notice, every court in the State should be equipped with the technology necessary to host live audio and video streaming, and required to broadcast in an accessible way, as well as required to report any malfunctions with the remote participation on their end.

The lack of public access to criminal court proceedings can have several negative consequences. First, it can prevent the public from holding the government accountable for its actions. Second, it can prevent the public from observing the administration of justice. Third, it can deny the public the right to see what is happening in their court system.

Allowing for virtual public access to criminal court proceedings would mean that instead of having to physically be in the courtroom, the public could tune into the proceedings from the comfort of their own homes. This would provide a sense of privacy for the

accused when courtrooms filled with people can be daunting, and would also allow for more people to be able to access the proceedings – especially those who live in rural areas or are unable to take time off work, school, child care, etc. to attend in person. This is crucial for the ability of loved ones to be able to attend court cases to support defendants, victims, and witnesses in their proceedings.

The equity and transparency that HB133/SB043 calls for provide the accountability we need to ensure that the court process is fair and that justice is being served. This is especially important for victims of crime, who often feel silenced by the criminal justice system. Allowing virtual public access to court proceedings would ensure that victims have a voice, and would allow them to see the wheels of justice turning. This may also lead to greater civic engagement from the public.

It is because transparency is essential for maintaining trust in our institutions that Progressive Maryland is asking the Maryland legislature to safeguard remote access to criminal court proceedings by passing HB133/SB043 this session.

Sincerely,

Larry Stafford, Jr.

Larry Stafford, Jr., Executive Director of Progressive Maryland



701 Lenzen Ave. San José, CA. 95126 • info@siliconvalleydebug.org • 408.971.4965

To: Maryland General Assembly

From: Silicon Valley De-Bug

Re: Support of Legislation to Protect Remote Access to the Courts

Dear Maryland Legislators,

Silicon Valley De-Bug is a community based organization headquartered in San Jose, California. We partner with organizations nationally, including Maryland's Life After Release, in supporting families whose loved ones are incarcerated and facing the criminal legal system. Our collaborations are based on a common community organizing model called participatory defense - an approach for families and communities to observe and engage in the court system in order to advocate for freedom of fellow community members. We are part of the National Participatory Defense Network - with partners in over 30 cities across the country.

We submit this letter to compel the legislature to support the bill to protect remote access of the courts. What we learned nationally during the early years of COVID is that court access is critical to the function of justice and its absence will invariably lead to a justified skepticism of the court system and a deprivation of constitutional protections of those facing the system.

This became painfully apparent in Prince George County in particular. Conversely, when the community was able to gain access, they were able to expose the illegal detention of individuals who otherwise were being vanished. Transparency in the courts is the only safeguard the public has to ensure community members can hold court actors accountable.

Of course in no way should remote access replace in person court accessibility. Rather, we want to protect remote *access* to all court proceedings—in-person and otherwise—for members of the public, including dedicated court watchers, advocates and family members. And as the criminal legal system disproportionately targets Black and Brown communities, access rights is absolutely a racial justice issue.

It is clear that COVID has ushered in a new era where in person gatherings may not always be possible. This is all the more reason for the Maryland legislature to concretize the right to remote access of the courts.

Sincerely,

A handwritten signature in black ink, appearing to read "Raj Jayadev", with a horizontal line underneath.

Raj Jayadev
Executive Director, Silicon Valley De-Bug

Fully Restoring Every Sons Hope



Ref: SB043

January 20, 2023

To Senator Rosapepe, Delegate Moon and Members of the Maryland General Assembly.

Good day to you all! We at FRESH write this letter of support for Senate Bill 043. We believe Court Proceedings-Remote Public Access and Participation is a bill that is not only in the public's interest, but also in the interest of the defendant's who are being tried and entitled to a fair and public trial.

We at F.R.E.S.H thank you in advance for your time and favorable consideration in this most important matter to our community and citizens of this great State of Maryland.

Cordially,


Anthony J. Wilson, Dir.

F.R.E.S.H

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Written Organizational Support Testimony

The Haddington Participatory Defense Hub

“Court Remote Public Access Act”

HB133 and SB043

January 23, 2023,

Dear Chairman Will Smith of the Judicial Committee and Chairman Luke Clippinger of the Judiciary Committee,

The Haddington Participatory Defense Hub is located in Philadelphia, PA. Our hub is part of the network of Participatory Defense Movement and is a partner with Ardella’s House; a transitional home for women returning from incarceration. Participatory Defense is a community organizing model for people facing charges, their families, and communities to impact the outcomes of cases and transform the landscape of power in the court system.

Though we are located in PA, we have participant families that are being impacted by other states including MD. We are writing to lend our support to S.B43/H.B133. Since our participants may be incarcerated in MD with their families living in PA or vice versa, it is important that families continue with the ability to support their loved ones through virtual means. This is not just important to families, but also to the Hubs that support them as human beings who are facing a system that has a history of not being transparent and equitable. The ability to observe these proceedings help families to help their loved ones to participate in their own defense, it also allows families to continue to understand and observe the process. It helps families to be able to communicate with their defense attorneys on a more informed basis because they are present virtually.

Not only does virtual access allow the increased engagement with families, defendants and attorneys, but it also holds those who are in power in a courtroom the ability to understand and actually see that the community at large cares about the outcome of these proceedings. Legislators should support this bill because many of them have no real experience observing court processes and being able to observe virtually will allow them to speak as informed political representatives of the people they serve. Many of those who are impacted by the court system may not be able to attend in person due to work, transportation, or location. Continuing to allow remote access to the court rooms increase participation with the process on many levels, it also would speak to the transparency that is supposed to exist in this system to ensure that everyone involved is held accountable to the community at large which is who pays the salaries, benefits, etc. through tax dollars.

For the reasons stated, we support S.B43/H.B133. It is our hope that the Judiciary Committee votes favorably on this bill.

Respectfully,

Haddington Participatory Defense Hub



INSTITUTE FOR CONSTITUTIONAL ADVOCACY AND PROTECTION
GEORGETOWN UNIVERSITY LAW CENTER

VIA EMAIL

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January 20, 2023

Dear Senator Rosapepe, Delegate Moon, and Members of the General Assembly,

We are writing to urge you to support legislation that will be introduced this session in the Maryland General Assembly to expand public access to proceedings in state court.

We are attorneys with the Institute for Constitutional Advocacy and Protection (ICAP) at Georgetown University Law Center. ICAP is a non-partisan institute that uses novel litigation tools, strategic policy development, and constitutional scholarship to vindicate individuals' constitutional rights, protect democratic processes, and defend the rule of law.

As part of its work, ICAP has successfully advanced the cause of criminal legal system reform, including by representing individuals who have been subjected to unfair fines and fees, harmed by cash bail systems, caught up in unconstitutional pretrial detention schemes, and victims of excessive force by law enforcement. It is our strong belief that public access to court proceedings is an indispensable component of ensuring that our criminal justice system adheres to our laws and Constitution.

Recently, ICAP represented journalists and community organizations in a successful lawsuit challenging Maryland's "Broadcast Ban," which prohibited members of the public from broadcasting official recordings of criminal proceedings that are made available to the public.¹ Just last month, a federal judge ruled in the plaintiffs' favor in *Soderberg v. Carrion*, and wrote that Maryland cannot punish

¹ Mem. Op., *Soderberg v. Carrion*, No. RDB-19-1559, 2022 U.S. Dist. LEXIS 222645 (D. Md. Dec. 9, 2022), available at <https://www.law.georgetown.edu/icap/wp-content/uploads/sites/32/2022/12/Soderberg-SJ-Opinion.pdf>.

the press for broadcasting “lawfully obtained, truthful information” that has already been disclosed to the public.²

In response to that ruling, which vindicated foundational First Amendment principles and ensured that criminal justice in Maryland would not be kept out of view of the broader public, the state judiciary attempted to reinstate the “Broadcast Ban” by rushing through a rule that would drastically cut off access to court recordings.³ Public outcry over this proposal led the judiciary to delay its decision on the rule,⁴ but it is clear that this temporary reprieve will not be enough to safeguard transparency in Maryland state courts.

Given this, we strongly urge the General Assembly to pass legislation to ensure widespread access to court proceedings. Public access to court proceedings is a critical bulwark against abusive and unconstitutional practices. Justice Felix Frankfurter wrote that “[o]ne of the demands of a democratic society is that the public should know what goes on in courts by being told by the press what happens there, to the end that the public may judge whether our system of criminal justice is fair and right.”⁵ Nearly 75 years later, Justice Frankfurter’s words could not be more salient. Our litigation to reform the criminal legal system relies on the efforts of those who are devoted to vigilant monitoring of what goes on in our nation’s courtrooms – including those in Maryland.

ICAP is currently co-counsel with the Civil Rights Corps in ongoing litigation, *Frazier v. Prince George’s County*, which alleges a harmful and unconstitutional pretrial detention system in Prince George’s County.⁶ The facts contained in the complaint would not have been revealed to the public had there not been virtual access to Zoom proceedings during the COVID-19 pandemic.⁷ Our work has been invaluablely aided by organizations like Courtwatch PG, whose volunteers “observe bail hearings” to “document our county’s policies in action and to hold judicial actors accountable for injustice in the court system.”⁸

The fact that many court proceedings were first made available virtually during the pandemic does not negate the transformative, democratizing importance of allowing the public into the halls of justice. In fact, the pandemic has ushered in a new era of public access to courts. For example, the Judicial Conference of the United States recently agreed to expand its audio streaming project to include 35 federal courts that will post audio records of its proceedings online.⁹

² *Id.* at p. 1, citing *Smith v. Daily Mail Publ’g Co.*, 443 U.S. 97, 101 (1979).

³ *Transparency Advocates Decry Proposed Md. Rule on Court Audio Recordings*, Washington Post (Jan. 5, 2023), available at <https://www.washingtonpost.com/dc-md-va/2023/01/05/court-audio-recordings-maryland/>.

⁴ *Maryland Supreme Court Postpones Decision on Proposed Rule to Curtail Public Access to Criminal Case Recordings*, Baltimore Sun (Jan. 6, 2023), available at <https://www.baltimoresun.com/news/crime/bs-md-cr-proposed-court-audio-recording-restriction-meeting-20230106-k3vk6x3tarhhdhfhhecno31264-story.html>.

⁵ *Maryland v. Baltimore Radio Show*, 338 U.S. 912, 920 (1950).

⁶ Complaint, *Frazier v. Prince George’s County*, No. 22-cv-0178 (D. Md. July 19, 2019), available at https://www.law.georgetown.edu/icap/wp-content/uploads/sites/32/2022/07/2022.07.19-Complaint_Redacted.pdf

⁷ See, e.g. Mae C. Quinn and Asha Burwell, *Justice System “More Accessible, Visible and Accountable” Because of Technology Used During COVID*, Baltimore Sun (May 28, 2021), available at <https://www.baltimoresun.com/opinion/op-ed/bs-ed-op-0530-video-court-20210528-ioofd7bkfdlxmjs2v7xczyc4-story.html>.

⁸ *About Us*, Courtwatch PG, available at <https://courtwatchpg.com> (accessed Jan. 18, 2023).

⁹ *Judicial Conference Adopts Transparency Measures*, United States Courts, March 15, 2022, available at <https://www.uscourts.gov/news/2022/03/15/judicial-conference-adopts-transparency-measures>.

Marylanders deserve a criminal justice system that is transparent and open to scrutiny from the communities it is meant to serve. For these reasons, we ask the General Assembly to swiftly take up legislation that will allow remote access to proceedings in Maryland's courts.

Thank you for your consideration.

Sincerely,

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