

January 24, 2023

Testimony of William A. Haines
Volunteer, Courtwatch PG
5603 Gary Avenue
Alexandria, VA 22311

For Senate Bill 43 with the expected amendment

My name is William A. Haines. As a volunteer with Courtwatch PG, I have monitored and reported on over a thousand bond hearings in the Prince George's County District Court in the past 14 months. I am writing in support of Senate Bill 43, to make Maryland's "public" court hearings genuinely public by ensuring remote access to hearings meant to be public.

My understanding is that the text that the sponsor Senator Rosapepe intends, the text we at Courtwatch PG support, is the text included beneath my testimony here, different from what is currently posted.

This bill would greatly facilitate citizen attendance at public court hearings.

The possibility of abuse

For almost two years, MD hearings were Zoom accessible and to our knowledge there was no abuse. Using Zoom rather than livestreaming makes abuse easier to prevent.

Abuse is already possible. Even now recordings from the courtroom are easy to make and sneak out. But if the possibility of occasional abuse were reason to block major projects, we wouldn't have cars; we wouldn't have courts. We do have cars and courts, and we need to be serious about preventing abuses. That is why court hearings must be public.

The court sometimes has a duty to conceal what happens in a courtroom. That is why not all hearings are public. The court has no **general** duty to conceal from the public what happens in **public** hearings. Our bill applies only to public hearings, and it has a clause giving judges some discretion to suspend remote access even to public hearings.

This bill would make Maryland a leader in what must be the wave of the future. Everyone sees that "freedom of the press" is not specifically about printing presses, and everyone is coming to see that an open courtroom door does not make a proceeding genuinely "public." It is quickly becoming plain that only remote access is public access. Florida is ahead of us on this, as can be seen in the following **directory of remote access to Florida court hearings**: <https://courtrooms.flcourts.gov/>

The courts sorely need the supervision that publicity is supposed to provide. Court officers are only human. My experience as a courtwatcher has shown me that judges, attorneys, police, and jail officials often make simple mistakes that can ruin lives—and that after a few months of feedback from a courtwatching group, their performance can improve significantly.

In deeper ways the system may need repair. For example, it appears that lengthy pretrial detention on cases that do **not** proceed to trial is being used on a large scale as a way to punish people without trial. Further, at least in Prince George's County, even the decision about whether to hold someone before trial is very often not really made by a judge, but rather delegated to a shadowy agency in the jail whose process is not public, not governed by known rules, and not prompt. **The way to improve the system is not by concealing its activities.**

A legal system cannot work unless the people believe it works for them, feel they have access, feel that in some fundamental sense the system cares about them and respects them. In these days of fragmenting community and communication we desperately need common spaces that matter, where the rules are clear, impressive, and respected, and fair and disciplined discourse is modeled. Courtrooms in the broad sense, truly accessible courtrooms, can be among those spaces.

During the year and a half when court business was all by Zoom, people had much better access to court hearings involving their loved ones. People could attend from work, or while caring for children. But today, over and over we hear that even people who want to be character witnesses for their loved ones cannot make it to court. This bill would give judges the discretion to let people participate remotely, at great benefit to fairness and to the community's respect for the courts.

I beg you to support this bill.

Thank you sincerely,

A handwritten signature in black ink, appearing to read 'William A. Haines'.

William A. Haines
Volunteer, Courtwatch PG

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HOUSE BILL 133

D1
HB 647/22 - JUD

3lr0766

By: **Delegates Moon and Williams**
Introduced and read first time: January 13, 2023
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Court Proceedings - Remote Public Access and Participation**

3 FOR the purpose of requiring each court in the State to provide remote audio-visual public
4 access to all public court proceedings; authorizing remote participation in a court
5 proceeding by a nonparty; providing for the reporting and resolution of the
6 malfunctioning of an audio-visual public access system; and generally relating to
7 remote access to and participation in court proceedings.

8 BY repealing and reenacting, without amendments,
9 Article - Courts and Judicial Proceedings
10 Section 1-101(a) and (c)
11 Annotated Code of Maryland
12 (2020 Replacement Volume and 2022 Supplement)

13 BY adding to
14 Article - Courts and Judicial Proceedings
15 Section 1-206
16 Annotated Code of Maryland
17 (2020 Replacement Volume and 2022 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
19 That the Laws of Maryland read as follows:

20 **Article - Courts and Judicial Proceedings**

21 1-101.

22 (a) In this title the following words or terms have the meanings indicated.

2

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1 (c) "Court" means the Court of Appeals, Court of Special Appeals, circuit court,
2 and District Court of Maryland, or any of them, unless the context clearly requires a
3 contrary meaning. It does not include an orphans' court, or the Maryland Tax Court.

4 **1-206.**

5 (A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION
6 AND SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, EACH COURT IN THE STATE
7 SHALL PROVIDE CONTEMPORANEOUS REMOTE AUDIO-VISUAL PUBLIC ACCESS TO
8 ALL PUBLIC COURT PROCEEDINGS THROUGH AN AUDIO-VISUAL PUBLIC ACCESS
9 SYSTEM.

10 (2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO A
11 PROCEEDING THAT IS DEEMED CLOSED, CONFIDENTIAL, OR RESTRICTED BY
12 FEDERAL OR STATE LAW.

13 (3) ~~UNLESS THERE IS AN OVERRIDING PUBLIC INTEREST~~
14 ~~COMPELLING DISCLOSURE, A~~ A PRESIDING JUDGE MAY ~~PROHIBIT THE BROADCAST OF~~
15 RESTRICT REMOTE ACCESS TO
16 ANY PORTION OF A PROCEEDING ON THE REQUEST OF ANY PARTY, WITNESS, OR
17 COUNSEL INVOLVED IN THE PROCEEDING IF THE PRESIDING JUDGE FINDS THERE IS CLEAR AND CONVINCING
18 EVIDENCE THAT REMOTE ACCESS WOULD ENDANGER AN IMPORTANT STATE INTEREST, AND THE RESTRICTION IS
19 NARROWLY
20 TAILORED TO ADDRESS THE DANGER.

21 (B) ON THE REQUEST OF COUNSEL AND FOR GOOD CAUSE SHOWN, A
22 PRESIDING JUDGE MAY AUTHORIZE THE USE OF THE COURT'S AUDIO-VISUAL
23 PUBLIC ACCESS SYSTEM TO ALLOW AN INDIVIDUAL WHO IS NOT A PARTY TO A
24 PROCEEDING TO PARTICIPATE IN THE PROCEEDING REMOTELY, INCLUDING BY
25 SPEAKING ON THE RECORD OR OFFERING TESTIMONY.

26 (C) (1) EACH COURT IN THE STATE SHALL DESIGNATE A PERSON OR
27 PERSONS TO RECEIVE AND RESPOND TO REPORTS DURING COURT PROCEEDINGS
28 THAT THE COURT'S AUDIO-VISUAL PUBLIC ACCESS SYSTEM IS MALFUNCTIONING.

29 (2) THE CONTACT INFORMATION, INCLUDING TELEPHONE NUMBER
30 AND E-MAIL ADDRESS, FOR THE PERSON OR PERSONS DESIGNATED UNDER
31 PARAGRAPH (1) OF THIS SUBSECTION SHALL BE PUBLISHED ON THE COURT'S
32 WEBSITE.

33 (3) ON REPORT OF ANY MALFUNCTION OF THE AUDIO-VISUAL PUBLIC
ACCESS SYSTEM, THE PERSON OR PERSONS RESPONSIBLE FOR THE SYSTEM SHALL
WORK EXPEDITIOUSLY TO RESOLVE THE MALFUNCTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
October 1, 2023.