

TESTIMONY IN SUPPORT OF SB 043:

Courts - Remote Public Access and Participation

TO: Hon. William C. Smith, Jr. Chairman, Senate Judicial Proceedings Committee

FROM: Jade Eaton, 19 Ridge Road, Unit E, Greenbelt, MD

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I support **Senate Bill 043** as a means to require each court in the State to provide remote audio-visual public access to all public court proceedings, unless a proceeding is deemed closed, confidential, or restricted by federal or State law or a Judge.

Public access to judicial proceedings is a hallmark of democratic government and serves to promote accountability within the legal system. The pandemic proved the feasibility of public remote access to court proceedings, including via telephonic and videoconferencing technologies. While access was implemented due to public health concerns, it also ameliorated non-covid related obstacles to the courts. For example, the lack of affordable and accessible public transit options for visiting County and State Courthouses makes it **functionally impossible** for many Maryland residents to attend court proceedings in person. People should not have to take on such a heavy burden to exercise their constitutional right to attend or observe public court proceedings for the following reasons:

- **Foundational Right:** The First Amendment and Sixth Amendments to the U.S. Constitution guarantee open public access to court proceedings. The world became more virtual due to the pandemic. We learned to work and meet online. It is imperative that rights keep up with the times to ensure fairness and transparency.
- **Foster civic engagement:** As city hall proceedings and public meetings become more widely accessible virtually, so too should court proceedings. If the everyday happenings of our judiciary are more accessible, the public will be more civically engaged.
- **Accessibility for loved ones and more equitable public participation:** While courts are technically “open” to the public, the challenges of coming to court — the cost of transportation, taking time off from work, and childcare — erect barriers of entry that **disproportionately affect low-income communities**. Online court access ensures loved ones can be present to support defendants, victims, and witnesses in their proceedings.
- **Greater transparency and accountability:** Online court access ensures that the public has safe, affordable, and meaningful opportunities to observe their legal system at work. With greater public access to court comes greater accountability. Accountability creates a foundation for greater trust in and support for our institutions.

Remote audio-visual access and participation established during the COVID-19 pandemic improved public understanding of our court system and enabled residents of Maryland to participate with greater ease and less personal and financial cost. Court access creates transparency and accountability; without it there is no public oversight. Public access ensures that any errors, oversights, and injustices are visible to the public. Two tools that provide public accountability are courtwatch programs and the media. The PG County Courtwatch program has used remote access for the past few years. Courtwatch programs like these are vital because they gather real-time, objective data about the court system, and they hold officials accountable who have been shown to misuse their position within the courtroom. Remote audio-visual court access also makes attending easier for the press. Local news sources are already struggling and

sending a reporter to the courthouse to wait for a trial is a challenge. Virtual access makes local coverage of the courts more attainable.

In the last session, I testified in support of legislation to make gains in online access to courts permanent. At the time, I was participating in Courtwatch PG using audio-visual conferencing technology--access that we sought to protect. As we feared, when the COVID danger lessened, the Courts withdrew full online access. After we had remote audio-visual access to bond hearings for over a year, it was suddenly ended and replaced with an audio-only feed that has proved problematic at times and been completely unintelligible at others. There is no legislation in place that guarantees that even this inferior virtual access will be continued. Taking away effective online access to the courts undermines their integrity and undercuts the public's confidence in the judicial process, which is the cornerstone of our judiciary. Enabling public access elevates our justice system to the highest standard of accuracy and integrity.

Past practice in 2021 and 2022 showed us that virtual access to court is possible. Increasing access for journalists, courtwatch programs, family and community members will build a more trustworthy, equitable court system. And, as the Supreme Court noted in [Press-Enterprise Co. v. Superior Court of Riverside County, 464, U.S. 502, 508 \(1984\)](#), regarding the public's ability to access court proceedings, "Openness thus enhances both the basic fairness of the criminal trial and the appearance of fairness so essential to public confidence in the system." For these reasons, we urge a favorable vote on **SENATE BILL O43**.