

2043

2009-2010 Regular Sessions

I N S E N A T E

February 11, 2009

Introduced by Sens. DeFRANCISCO, HANNON, MAZIARZ, MORAHAN -- read twice
and ordered printed, and when printed to be committed to the Committee
on Judiciary

AN ACT to amend the judiciary law, in relation to audio-visual coverage
of judicial proceedings and to repeal section 218 of such law relating
to audio-visual coverage of judicial proceedings

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 218 of the judiciary law is REPEALED and a new
2 section 218 is added to read as follows:
3 S 218. AUDIO-VISUAL COVERAGE OF JUDICIAL PROCEEDINGS. 1. AUTHORI-
4 ZATION. NOTWITHSTANDING THE PROVISIONS OF SECTION FIFTY-TWO OF THE CIVIL
5 RIGHTS LAW, AUDIO-VISUAL COVERAGE OF CIVIL AND CRIMINAL TRIAL
6 PROCEEDINGS IS AUTHORIZED SUBJECT TO THE PROVISIONS OF THIS SECTION.
7 2. DEFINITIONS. FOR PURPOSES OF THIS SECTION:
8 (A) "ADMINISTRATIVE JUDGE" SHALL MEAN THE ADMINISTRATIVE JUDGE OF EACH
9 JUDICIAL DISTRICT; THE ADMINISTRATIVE JUDGE OF NASSAU COUNTY OR OF
10 SUFFOLK COUNTY; THE ADMINISTRATIVE JUDGE OF THE CIVIL COURT OF THE CITY
11 OF NEW YORK OR OF THE CRIMINAL COURT OF THE CITY OF NEW YORK; OR THE
12 PRESIDING JUDGE OF THE COURT OF CLAIMS.
13 (B) "AUDIO-VISUAL COVERAGE" SHALL MEAN THE ELECTRONIC BROADCASTING OR
14 OTHER TRANSMISSION TO THE PUBLIC OF RADIO OR TELEVISION SIGNALS FROM THE
15 COURTROOM, THE RECORDING OF SOUND OR LIGHT IN THE COURTROOM FOR LATER
16 TRANSMISSION OR REPRODUCTION, OR THE TAKING OF STILL OR MOTION PICTURES
17 IN THE COURTROOM BY THE NEWS MEDIA.
18 (C) "NEWS MEDIA" SHALL MEAN ANY NEWS REPORTING OR NEWS GATHERING AGEN-
19 CY AND ANY EMPLOYEE OR AGENT ASSOCIATED WITH SUCH AGENCY, INCLUDING, BUT
20 NOT LIMITED TO, TELEVISION, RADIO, RADIO AND TELEVISION NETWORKS, WIRED
21 AND/OR WIRELESS INTERNET OR ONLINE OR OTHER SERVICES USING ANY MEANS OF
22 TRANSMISSION, NEWS SERVICES, NEWSPAPERS, MAGAZINES, TRADE PAPERS,
23 IN-HOUSE PUBLICATIONS, PROFESSIONAL JOURNALS OR ANY OTHER NEWS REPORTING

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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OR NEWS GATHERING AGENCY, THE FUNCTION OF WHICH IS TO INFORM THE PUBLIC, OR SOME SEGMENT THEREOF.

(D) "PRESIDING TRIAL JUDGE" SHALL MEAN THE JUSTICE OR JUDGE PRESIDING OVER PROCEEDINGS AT WHICH AUDIO-VISUAL COVERAGE IS REQUESTED PURSUANT TO THIS SECTION.

(E) "COVERT OR UNDERCOVER CAPACITY" SHALL MEAN LAW ENFORCEMENT ACTIVITY INVOLVING CRIMINAL INVESTIGATION BY PEACE OR POLICE OFFICERS WHO USUALLY AND CUSTOMARILY WEAR NO UNIFORM, BADGE, OR OTHER OFFICIAL IDENTIFICATION IN PUBLIC VIEW.

(F) "ARRAIGNMENT" SHALL HAVE THE SAME MEANING AS SUCH TERM IS DEFINED IN SUBDIVISION NINE OF SECTION 1.20 OF THE CRIMINAL PROCEDURE LAW.

(G) "SUPPRESSION HEARING" SHALL MEAN A HEARING ON A MOTION MADE PURSUANT TO THE PROVISIONS OF SECTION 710.20 OF THE CRIMINAL PROCEDURE LAW; A HEARING ON A MOTION TO DETERMINE THE ADMISSIBILITY OF ANY PRIOR CRIMINAL, VICIOUS OR IMMORAL ACTS OF A DEFENDANT AND ANY OTHER HEARING HELD TO DETERMINE THE ADMISSIBILITY OF EVIDENCE.

(H) "NONPARTY WITNESS" SHALL MEAN ANY WITNESS IN A CRIMINAL OR FAMILY COURT TRIAL PROCEEDING WHO IS NOT A PARTY TO SUCH PROCEEDING; EXCEPT AN EXPERT OR PROFESSIONAL WITNESS, A PEACE OR POLICE OFFICER WHO ACTED IN THE COURSE OF HIS OR HER DUTIES AND WAS NOT ACTING IN A COVERT OR UNDERCOVER CAPACITY IN CONNECTION WITH THE INSTANT COURT PROCEEDING, OR ANY GOVERNMENT OFFICIAL ACTING IN AN OFFICIAL CAPACITY, SHALL NOT BE DEEMED TO BE A "NONPARTY WITNESS".

(I) "VISUALLY OBSCURED" SHALL MEAN THAT THE FACE OF A PARTICIPANT IN A TRIAL PROCEEDING SHALL EITHER NOT BE SHOWN OR SHALL BE RENDERED VISUALLY UNRECOGNIZABLE TO THE VIEWER OF SUCH PROCEEDING BY MEANS OF SPECIAL EDITING BY THE NEWS MEDIA.

(J) "AURALLY OBSCURED" SHALL MEAN THAT THE VOICE OF A PARTICIPANT IN A TRIAL PROCEEDING SHALL BE RENDERED AURALLY UNRECOGNIZABLE TO THE LISTENER OF SUCH PROCEEDING BY MEANS OF SPECIAL EDITING BY THE NEWS MEDIA.

(K) "VICTIM" SHALL MEAN A NATURAL PERSON AGAINST WHOM ANY OFFENSE AS DEFINED IN SUBDIVISION ONE OF SECTION 10.00 OF THE PENAL LAW HAS BEEN COMMITTED OR ATTEMPTED, WHERE SUCH OFFENSE IS CHARGED IN AN ACCUSATORY INSTRUMENT AS DEFINED IN SUBDIVISION ONE OF SECTION 1.20 OF THE CRIMINAL PROCEDURE LAW OR IS ALLEGED IN A PETITION FILED IN FAMILY COURT. "VICTIM" SHALL INCLUDE THE FAMILY MEMBERS IN CLOSEST DEGREE OF RELATIONSHIP TO A HOMICIDE VICTIM OR THE FAMILY MEMBERS OR GUARDIAN WHO HAD CUSTODY OF A MINOR WHO IS A CRIME VICTIM.

3. REQUESTS FOR COVERAGE OF PROCEEDINGS; ADMINISTRATIVE REVIEW. (A) PRIOR TO THE COMMENCEMENT OF THE PROCEEDINGS, ANY NEWS MEDIA INTERESTED IN PROVIDING AUDIO-VISUAL COVERAGE OF COURT PROCEEDINGS SHALL FILE A REQUEST WITH THE PRESIDING TRIAL JUDGE, IF ASSIGNED, OR IF NO ASSIGNMENT HAS BEEN MADE, TO THE JUDGE RESPONSIBLE FOR MAKING SUCH ASSIGNMENT FOR TRANSMITTAL TO THE JUDGE TO WHOM THE PROCEEDING IS ULTIMATELY ASSIGNED. UPON RECEIPT OF ANY APPLICATION, THE PRESIDING TRIAL JUDGE SHALL CAUSE ALL PARTIES AND ALL KNOWN VICTIMS OF CRIMES NAMED IN THE ACCUSATORY INSTRUMENT OF THE PROCEEDING TO BE NOTIFIED OF SUCH APPLICATION. REQUESTS FOR AUDIO-VISUAL COVERAGE SHALL BE MADE IN WRITING AND NOT LESS THAN TEN DAYS BEFORE THE COMMENCEMENT OF THE JUDICIAL PROCEEDING, AND SHALL REFER TO THE INDIVIDUAL PROCEEDING WITH SUFFICIENT IDENTIFICATION TO ASSIST THE PRESIDING TRIAL JUDGE IN CONSIDERING THE REQUEST. ANY PARTY OR VICTIM WHO OBJECTS TO SUCH REQUEST FOR AUDIO-VISUAL COVERAGE SHALL FILE WITH THE COURT SUCH OBJECTION AND THE REASONS THEREFOR WITHIN FIVE DAYS OF RECEIPT OF THE REQUEST. WHERE CIRCUMSTANCES ARE SUCH THAT AN APPLICANT CANNOT REASONABLY APPLY TEN OR MORE DAYS BEFORE THE

1 COMMENCEMENT OF THE PROCEEDING, THE PRESIDING TRIAL JUDGE MAY SHORTEN
2 THE TIME PERIOD FOR REQUESTS.

3 (B) PERMISSION FOR AUDIO-VISUAL COVERAGE SHALL BE AT THE DISCRETION OF
4 THE PRESIDING TRIAL JUDGE. AN ORDER GRANTING OR DENYING A REQUEST FOR
5 AUDIO-VISUAL COVERAGE OF A PROCEEDING SHALL BE IN WRITING AND SHALL BE
6 INCLUDED IN THE RECORD OF SUCH PROCEEDING. SUCH ORDER SHALL CONTAIN ANY
7 RESTRICTIONS IMPOSED BY THE JUDGE ON THE AUDIO-VISUAL COVERAGE AND SHALL
8 CONTAIN A STATEMENT ADVISING THE PARTIES THAT ANY VIOLATION OF THE ORDER
9 IS PUNISHABLE BY CONTEMPT PURSUANT TO ARTICLE NINETEEN OF THIS CHAPTER.
10 SUCH ORDER FOR INITIAL ACCESS SHALL BE SUBJECT ONLY TO REVIEW BY THE
11 APPROPRIATE ADMINISTRATIVE JUDGE; THERE SHALL BE NO FURTHER JUDICIAL
12 REVIEW OF SUCH ORDER OR DETERMINATION DURING THE PENDENCY OF A PROCEED-
13 ING BEFORE THE PRESIDING TRIAL JUDGE. ANY APPEALS PURSUANT TO THIS PARA-
14 GRAPH SHALL BE HEARD AND DETERMINED PRIOR TO THE COMMENCEMENT OF SUCH
15 PROCEEDING. NO ORDER ALLOWING OR DENYING AUDIO-VISUAL COVERAGE OF A
16 PROCEEDING SHALL BE SEALED.

17 (C) SUBJECT TO THE PROVISIONS OF SUBDIVISION SEVEN OF THIS SECTION,
18 UPON A REQUEST FOR AUDIO-VISUAL COVERAGE OF COURT PROCEEDINGS, THE
19 PRESIDING TRIAL JUDGE SHALL, AT A MINIMUM, TAKE INTO ACCOUNT THE FOLLOW-
20 ING FACTORS: (I) THE TYPE OF CASE INVOLVED; (II) WHETHER SUCH COVERAGE
21 WOULD CAUSE HARM TO ANY PARTICIPANT IN THE CASE OR OTHERWISE INTERFERE
22 WITH THE FAIR ADMINISTRATION OF JUSTICE, THE ADVANCEMENT OF A FAIR TRIAL
23 OR THE RIGHTS OF THE PARTIES; (III) WHETHER ANY ORDER DIRECTING THE
24 EXCLUSION OF WITNESSES FROM THE COURTROOM PRIOR TO THEIR TESTIMONY COULD
25 BE RENDERED SUBSTANTIALLY INEFFECTIVE BY ALLOWING AUDIO-VISUAL COVERAGE
26 THAT COULD BE VIEWED BY SUCH WITNESSES TO THE DETRIMENT OF ANY PARTY;
27 (IV) WHETHER SUCH COVERAGE WOULD INTERFERE WITH ANY LAW ENFORCEMENT
28 ACTIVITY; (V) WHETHER COVERAGE WOULD INVOLVE LEWD MATTERS; (VI) THE
29 OBJECTIONS OF ANY OF THE PARTIES, PROSPECTIVE WITNESSES, VICTIMS OR
30 OTHER PARTICIPANTS IN THE TRIAL PROCEEDING FOR WHICH COVERAGE IS SOUGHT;
31 (VII) THE PHYSICAL STRUCTURE OF THE COURTROOM AND THE LIKELIHOOD THAT
32 ANY EQUIPMENT REQUIRED TO CONDUCT COVERAGE CAN BE INSTALLED AND OPERATED
33 WITHOUT DISTURBANCE TO THOSE PROCEEDINGS OR ANY OTHER PROCEEDINGS IN THE
34 COURTHOUSE; (VIII) WHETHER COVERAGE WILL PREJUDICE ANY PARTY OR COMPRO-
35 MISE ANY CLAIM OR DEFENSE. THE PRESIDING TRIAL JUDGE SHALL NOT GRANT
36 PERMISSION FOR AUDIO-VISUAL COVERAGE IN ANY OF THE FOLLOWING TYPES OF
37 CASES UNLESS THE COURT FINDS THAT THE BENEFITS TO THE PUBLIC OF
38 AUDIO-VISUAL COVERAGE OUTWEIGH THE RISKS PRESENTED BY SUCH COVERAGE: (I)
39 A FAMILY COURT PROCEEDING, OTHER THAN ONE BROUGHT PURSUANT TO ARTICLE
40 THREE OF THE FAMILY COURT ACT; (II) ANY PROCEEDING WHERE AUDIO-VISUAL
41 COVERAGE IS LIKELY TO HAVE A SUBSTANTIAL ADVERSE EFFECT ON THE WELFARE
42 OF A CHILD, OTHER THAN A CRIMINAL PROCEEDING OR ONE BROUGHT PURSUANT TO
43 ARTICLE THREE OF THE FAMILY COURT ACT.

44 (D) A REQUEST FOR AUDIO-VISUAL COVERAGE MADE AFTER THE COMMENCEMENT OF
45 A TRIAL PROCEEDING IN WHICH A JURY IS SITTING SHALL NOT BE GRANTED
46 UNLESS, (I) COUNSEL FOR ALL PARTIES TO THE PROCEEDING CONSENT TO SUCH
47 COVERAGE, OR (II) THE REQUEST IS FOR COVERAGE OF THE VERDICT AND/OR
48 SENTENCING IN SUCH PROCEEDING.

49 4. SUPERVISION OF AUDIO-VISUAL COVERAGE; MANDATORY PRETRIAL CONFER-
50 ENCE; JUDICIAL DISCRETION. (A) AUDIO-VISUAL COVERAGE OF A COURT PROCEED-
51 ING SHALL BE SUBJECT TO THE SUPERVISION OF THE PRESIDING TRIAL JUDGE.
52 IN SUPERVISING AUDIO-VISUAL COVERAGE OF COURT PROCEEDINGS, IN PARTICULAR
53 ANY WHICH INVOLVE LEWD MATTERS, A PRESIDING TRIAL JUDGE SHALL, WHERE
54 NECESSARY FOR THE PROTECTION OF ANY PARTICIPANT OR TO PRESERVE THE
55 WELFARE OF A MINOR, PROHIBIT ALL OR ANY PART OF THE AUDIO-VISUAL COVER-
56 AGE OF SUCH PARTICIPANT, MINOR OR EXHIBIT.

(B) A PRETRIAL CONFERENCE SHALL BE HELD IN EACH CASE IN WHICH AUDIO-VISUAL COVERAGE OF A PROCEEDING HAS BEEN APPROVED. AT SUCH CONFERENCE THE PRESIDING TRIAL JUDGE SHALL REVIEW, WITH COUNSEL AND THE NEWS MEDIA WHO WILL PARTICIPATE IN THE AUDIO-VISUAL COVERAGE, THE RESTRICTIONS TO BE IMPOSED. COUNSEL SHALL CONVEY TO THE COURT ANY CONCERNS OF PROSPECTIVE WITNESSES WITH RESPECT TO AUDIO-VISUAL COVERAGE.

(C) THERE SHALL BE NO LIMITATION ON THE EXERCISE OF DISCRETION UNDER THIS SUBDIVISION EXCEPT AS PROVIDED BY LAW. THE PRESIDING TRIAL JUDGE MAY AT ANY TIME MODIFY OR REVERSE ANY PRIOR ORDER OR DETERMINATION.

5. CONSENT. (A) AUDIO-VISUAL COVERAGE OF ARRAIGNMENTS, BAIL HEARINGS, SUPPRESSION HEARINGS, AND PRELIMINARY HEARINGS IN CRIMINAL CASES, AND ALL PROCEEDINGS PURSUANT TO ARTICLE THREE OF THE FAMILY COURT ACT PRIOR TO A FACT-FINDING HEARING SHALL BE PERMITTED ONLY WITH THE CONSENT OF ALL PARTIES TO THE PROCEEDING; PROVIDED, HOWEVER, WHERE A PARTY IS NOT YET REPRESENTED BY COUNSEL CONSENT MAY NOT BE GIVEN UNLESS THE PARTY HAS BEEN ADVISED OF HIS OR HER RIGHT TO THE AID OF COUNSEL PURSUANT TO SUBDIVISION FOUR OF SECTION 170.10 OR SECTION 180.10 OF THE CRIMINAL PROCEDURE LAW AND THE PARTY HAS AFFIRMATIVELY ELECTED TO PROCEED WITHOUT COUNSEL AT SUCH PROCEEDING.

(B) COUNSEL TO EACH PARTY IN A TRIAL PROCEEDING SHALL ADVISE EACH NONPARTY WITNESS OR VICTIM THAT HE OR SHE HAS THE RIGHT TO REQUEST THAT HIS OR HER IMAGE BE VISUALLY AND/OR AURALLY OBSCURED DURING SAID WITNESS' TESTIMONY, AND UPON SUCH REQUEST THE PRESIDING TRIAL JUDGE SHALL ORDER THE NEWS MEDIA TO VISUALLY AND/OR AURALLY OBSCURE THE WITNESS IN ANY AND ALL AUDIO-VISUAL COVERAGE OF THE JUDICIAL PROCEEDING.

6. RESTRICTIONS RELATING TO EQUIPMENT AND PERSONNEL; SOUND AND LIGHT CRITERIA. WHERE AUDIO-VISUAL COVERAGE OF COURT PROCEEDINGS IS AUTHORIZED PURSUANT TO THIS SECTION, THE FOLLOWING RESTRICTIONS SHALL BE OBSERVED:

(A) EQUIPMENT AND PERSONNEL:

(I) NO MORE THAN TWO ELECTRONIC OR MOTION PICTURE CAMERAS AND TWO CAMERA OPERATORS SHALL BE PERMITTED IN ANY PROCEEDING.

(II) NO MORE THAN ONE PHOTOGRAPHER TO OPERATE TWO STILL CAMERAS WITH NOT MORE THAN TWO LENSES FOR EACH CAMERA SHALL BE PERMITTED IN ANY PROCEEDING.

(III) NO MORE THAN ONE AUDIO SYSTEM FOR BROADCAST PURPOSES AND ONE AUDIO SYSTEM OPERATOR SHALL BE PERMITTED IN ANY PROCEEDING. AUDIO PICKUP FOR ALL MEDIA PURPOSES SHALL BE EFFECTUATED THROUGH EXISTING AUDIO SYSTEMS IN THE COURT FACILITY. IF NO TECHNICALLY SUITABLE AUDIO SYSTEM IS AVAILABLE, MICROPHONES AND RELATED WIRING ESSENTIAL FOR MEDIA PURPOSES SHALL BE SUPPLIED BY THOSE PERSONS PROVIDING AUDIO-VISUAL COVERAGE. ANY MICROPHONES AND SOUND WIRING SHALL BE UNOBTRUSIVE AND LOCATED IN PLACES DESIGNATED BY THE PRESIDING TRIAL JUDGE.

(IV) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPHS (I), (II) AND (III) OF THIS PARAGRAPH, THE PRESIDING TRIAL JUDGE MAY MODIFY HIS ORIGINAL ORDER TO INCREASE OR DECREASE THE AMOUNT OF EQUIPMENT THAT WILL BE PERMITTED INTO A COURTROOM ON A FINDING OF SPECIAL CIRCUMSTANCES SO LONG AS IT WILL NOT IMPAIR THE DIGNITY OF THE COURT OR THE JUDICIAL PROCESS.

(V) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPHS (I), (II) AND (III) OF THIS PARAGRAPH, THE EQUIPMENT AUTHORIZED THEREIN SHALL NOT BE ADMITTED INTO A COURT PROCEEDING UNLESS ALL PERSONS INTERESTED IN PROVIDING AUDIO-VISUAL COVERAGE OF SUCH PROCEEDINGS SHALL HAVE ENTERED INTO POOLING ARRANGEMENTS FOR THEIR RESPECTIVE GROUPS. FURTHERMORE, A POOL OPERATOR FOR THE ELECTRONIC AND MOTION PICTURE MEDIA AND A POOL OPERATOR FOR THE STILL PHOTOGRAPHY MEDIA SHALL BE SELECTED, AND PROCE-

1 DURES FOR COST SHARING AND DISSEMINATION OF AUDIO-VISUAL MATERIAL ESTAB-
2 LISHED. THE COURT SHALL NOT BE CALLED UPON TO MEDIATE OR RESOLVE ANY
3 DISPUTE AS TO SUCH ARRANGEMENTS. IN MAKING POOLING ARRANGEMENTS, CONSID-
4 ERATION SHALL BE GIVEN TO EDUCATIONAL USERS' NEEDS FOR FULL COVERAGE OF
5 ENTIRE PROCEEDINGS.

6 (B) SOUND AND LIGHT CRITERIA:

7 (I) ONLY ELECTRONIC AND MOTION PICTURE CAMERAS, AUDIO EQUIPMENT AND
8 STILL CAMERA EQUIPMENT WHICH DO NOT PRODUCE DISTRACTING SOUND OR LIGHT
9 SHALL BE EMPLOYED TO COVER JUDICIAL PROCEEDINGS. THE CHIEF ADMINISTRATOR
10 OF THE COURTS SHALL PROMULGATE A LIST OF ACCEPTABLE EQUIPMENT MODELS.

11 (II) NO MOTORIZED DRIVES SHALL BE PERMITTED, AND NO MOVING LIGHTS,
12 FLASH ATTACHMENTS, OR SUDDEN LIGHTING CHANGES SHALL BE PERMITTED DURING
13 JUDICIAL PROCEEDINGS.

14 (III) NO LIGHT OR SIGNAL VISIBLE OR AUDIBLE TO TRIAL PARTICIPANTS
15 SHALL BE USED ON ANY EQUIPMENT DURING AUDIO-VISUAL COVERAGE TO INDICATE
16 WHETHER IT IS OPERATING.

17 (IV) IT SHALL BE THE AFFIRMATIVE DUTY OF ANY PERSON DESIRING TO USE
18 EQUIPMENT OTHER THAN THAT AUTHORIZED BY THE CHIEF ADMINISTRATOR TO
19 DEMONSTRATE TO THE PRESIDING TRIAL JUDGE, ADEQUATELY IN ADVANCE OF ANY
20 PROCEEDING, THAT THE EQUIPMENT SOUGHT TO BE UTILIZED MEETS ACCEPTABLE
21 SOUND AND LIGHT CRITERIA. A FAILURE TO OBTAIN ADVANCE JUDICIAL APPROVAL
22 FOR EQUIPMENT SHALL PRECLUDE ITS USE IN ANY PROCEEDING.

23 (V) WITH THE CONCURRENCE OF THE PRESIDING TRIAL JUDGE MODIFICATIONS
24 AND ADDITIONS MAY BE MADE TO LIGHT SOURCES EXISTING IN THE FACILITY,
25 PROVIDED SUCH MODIFICATION OR ADDITIONS ARE INSTALLED AND MAINTAINED AT
26 THE EXPENSE OF THE NEWS MEDIA WHO ARE PROVIDING AUDIO-VISUAL COVERAGE
27 AND PROVIDED THEY ARE NOT DISTRACTING OR OTHERWISE OFFENSIVE.

28 (C) LOCATION OF EQUIPMENT AND PERSONNEL. CAMERAS, EQUIPMENT AND
29 PERSONNEL SHALL BE POSITIONED IN LOCATIONS DESIGNATED BY THE PRESIDING
30 TRIAL JUDGE.

31 (I) ALL AUDIO-VISUAL COVERAGE OPERATORS SHALL ASSUME THEIR ASSIGNED,
32 FIXED POSITION WITHIN THE DESIGNATED AREA AND ONCE ESTABLISHED IN SUCH
33 POSITION, SHALL ACT IN A MANNER SO AS NOT TO CALL ATTENTION TO THEIR
34 ACTIVITIES.

35 (II) THE AREAS SO DESIGNATED SHALL PROVIDE REASONABLE ACCESS TO COVER-
36 AGE WITH THE LEAST POSSIBLE INTERFERENCE WITH COURT PROCEEDINGS. EQUIP-
37 MENT THAT IS NOT NECESSARY FOR AUDIO-VISUAL COVERAGE FROM INSIDE THE
38 COURTROOM SHALL BE LOCATED IN AN AREA OUTSIDE THE COURTROOM.

39 (D) MOVEMENT OF EQUIPMENT DURING PROCEEDINGS. EQUIPMENT SHALL NOT BE
40 PLACED IN, MOVED ABOUT OR REMOVED FROM THE COURTROOM, AND RELATED
41 PERSONNEL SHALL NOT MOVE ABOUT THE COURTROOM, EXCEPT PRIOR TO COMMENCE-
42 MENT OR AFTER ADJOURNMENT OF PROCEEDINGS EACH DAY, OR DURING A RECESS.
43 CAMERA FILM AND LENSES SHALL BE CHANGED ONLY DURING A RECESS IN
44 PROCEEDINGS.

45 7. RESTRICTIONS ON AUDIO-VISUAL COVERAGE. NOTWITHSTANDING THE INITIAL
46 APPROVAL OF A REQUEST FOR AUDIO-VISUAL COVERAGE OF ANY COURT PROCEEDING,
47 THE PRESIDING TRIAL JUDGE SHALL HAVE DISCRETION THROUGHOUT THE PROCEED-
48 ING TO REVOKE SUCH APPROVAL OR LIMIT SUCH COVERAGE, AND MAY WHERE APPRO-
49 PRIATE EXERCISE SUCH DISCRETION TO LIMIT, RESTRICT OR PROHIBIT AUDIO OR
50 VIDEO BROADCAST OR PHOTOGRAPHY OF ANY PART OF THE PROCEEDING IN THE
51 COURTROOM, OR OF THE NAME OR FEATURES OF ANY PARTICIPANT THEREIN. IN ANY
52 CASE, AUDIO-VISUAL COVERAGE SHALL BE LIMITED AS FOLLOWS:

53 (A) NO AUDIO PICKUP OR AUDIO BROADCAST OF CONFERENCES WHICH OCCUR IN A
54 COURT FACILITY BETWEEN ATTORNEYS AND THEIR CLIENTS, BETWEEN CO-COUNSEL
55 OF A CLIENT, OR BETWEEN COUNSEL AND THE PRESIDING TRIAL JUDGE, SHALL BE

1 PERMITTED WITHOUT THE PRIOR EXPRESS CONSENT OF ALL PARTICIPANTS IN THE
2 CONFERENCE;

3 (B) NO CONFERENCE IN CHAMBERS SHALL BE SUBJECT TO AUDIO-VISUAL COVER-
4 AGE;

5 (C) NO AUDIO-VISUAL COVERAGE OF THE SELECTION OF THE PROSPECTIVE JURY
6 DURING VOIR DIRE SHALL BE PERMITTED;

7 (D) NO AUDIO-VISUAL COVERAGE OF THE JURY, OR OF ANY JUROR OR ALTERNATE
8 JUROR, WHILE IN THE JURY BOX, IN THE COURTROOM, IN THE JURY DELIBERATION
9 ROOM DURING RECESS, OR WHILE GOING TO OR FROM THE DELIBERATION ROOM IN
10 THE COURTHOUSE AT ANY TIME SHALL BE PERMITTED; PROVIDED, HOWEVER, THAT,
11 UPON CONSENT OF THE FOREPERSON OF A JURY, THE PRESIDING TRIAL JUDGE MAY,
12 IN HIS OR HER DISCRETION, PERMIT AUDIO COVERAGE OF SUCH FOREPERSON
13 DELIVERING A VERDICT;

14 (E) NO AUDIO-VISUAL COVERAGE SHALL BE PERMITTED OF A WITNESS, WHO AS A
15 PEACE OR POLICE OFFICER ACTED IN A COVERT OR UNDERCOVER CAPACITY IN
16 CONNECTION WITH THE INSTANT COURT PROCEEDING, WITHOUT THE PRIOR WRITTEN
17 CONSENT OF SUCH WITNESS;

18 (F) NO AUDIO-VISUAL COVERAGE SHALL BE PERMITTED OF A WITNESS, WHO AS A
19 PEACE OR POLICE OFFICER IS CURRENTLY ENGAGED IN A COVERT OR UNDERCOVER
20 CAPACITY, WITHOUT THE PRIOR WRITTEN CONSENT OF SUCH WITNESS;

21 (G) NO AUDIO-VISUAL COVERAGE SHALL BE PERMITTED OF A CHILD, OTHER THAN
22 IN A CRIMINAL PROCEEDING OR A PROCEEDING PURSUANT TO ARTICLE THREE OF
23 THE FAMILY COURT ACT OR OF THE VICTIM IN A PROSECUTION FOR RAPE, CRIMI-
24 NAL SEXUAL ACT, SEXUAL ABUSE OR OTHER SEX OFFENSE UNDER ARTICLE ONE
25 HUNDRED THIRTY OR SECTION 255.25 OF THE PENAL LAW; NOTWITHSTANDING THE
26 INITIAL APPROVAL OF A REQUEST FOR AUDIO-VISUAL COVERAGE OF SUCH A
27 PROCEEDING, THE PRESIDING TRIAL JUDGE SHALL HAVE DISCRETION THROUGHOUT
28 THE PROCEEDING TO LIMIT ANY COVERAGE WHICH WOULD IDENTIFY SUCH CHILD OR
29 VICTIM, EXCEPT THAT SUCH CHILD, OR HIS OR HER PARENT, LEGAL GUARDIAN OR
30 LEGAL CUSTODIAN, OR VICTIM CAN REQUEST OF THE PRESIDING TRIAL JUDGE THAT
31 AUDIO-VISUAL COVERAGE BE PERMITTED OF HIS OR HER TESTIMONY, OR IN THE
32 ALTERNATIVE THE VICTIM CAN REQUEST THAT COVERAGE OF HIS OR HER TESTIMONY
33 BE PERMITTED BUT THAT HIS OR HER IMAGE SHALL BE VISUALLY AND/OR AURALLY
34 OBSCURED BY THE NEWS MEDIA, AND THE PRESIDING TRIAL JUDGE SHALL GRANT
35 THE REQUEST OF SUCH CHILD OR VICTIM FOR THE COVERAGE SPECIFIED;

36 (H) NO AUDIO-VISUAL COVERAGE OF ANY ARRAIGNMENT, BAIL HEARING,
37 SUPPRESSION HEARING, OR PRELIMINARY HEARING IN A CRIMINAL CASE, AND ALL
38 PROCEEDINGS PURSUANT TO ARTICLE THREE OF THE FAMILY COURT ACT PRIOR TO A
39 FACT-FINDING HEARING, SHALL BE PERMITTED WITHOUT THE PRIOR CONSENT OF
40 ALL PARTIES TO THE PROCEEDING; PROVIDED, HOWEVER, WHERE A PARTY IS NOT
41 YET REPRESENTED BY COUNSEL CONSENT MAY NOT BE GIVEN UNLESS THE PARTY HAS
42 BEEN ADVISED OF HIS OR HER RIGHT TO THE AID OF COUNSEL PURSUANT TO
43 SUBDIVISION FOUR OF SECTION 170.10 OR 180.10 OF THE CRIMINAL PROCEDURE
44 LAW AND THE PARTY HAS AFFIRMATIVELY ELECTED TO PROCEED WITHOUT COUNSEL
45 AT SUCH PROCEEDING;

46 (I) NO JUDICIAL PROCEEDING SHALL BE SCHEDULED, DELAYED, REENACTED OR
47 CONTINUED AT THE REQUEST OF, OR FOR THE CONVENIENCE OF THE NEWS MEDIA;

48 (J) NO AUDIO-VISUAL COVERAGE OF ANY PARTICIPANT SHALL BE PERMITTED IF
49 THE PRESIDING TRIAL JUDGE FINDS THAT SUCH COVERAGE IS LIABLE TO ENDANGER
50 THE SAFETY OF ANY PERSON;

51 (K) NO AUDIO-VISUAL COVERAGE OF ANY JUDICIAL PROCEEDINGS WHICH ARE BY
52 LAW CLOSED TO THE PUBLIC, OR WHICH MAY BE CLOSED TO THE PUBLIC AND WHICH
53 HAVE BEEN CLOSED BY THE PRESIDING TRIAL JUDGE SHALL BE PERMITTED; AND

54 (L) NO AUDIO-VISUAL COVERAGE SHALL BE PERMITTED WHICH FOCUSES ON OR
55 FEATURES A FAMILY MEMBER OF A VICTIM IN THE TRIAL OF A CRIMINAL CASE,
56 EXCEPT WHILE SUCH FAMILY MEMBER IS TESTIFYING. AUDIO-VISUAL COVERAGE

1 OPERATORS SHALL MAKE ALL REASONABLE EFFORTS TO DETERMINE THE IDENTITY OF
2 SUCH PERSONS, SO THAT SUCH COVERAGE SHALL NOT OCCUR.

3 8. VIOLATIONS. ANY VIOLATION OF AN ORDER OR DETERMINATION ISSUED UNDER
4 THIS SECTION SHALL BE PUNISHABLE AS A CONTEMPT PURSUANT TO ARTICLE NINE-
5 TEEN OF THIS CHAPTER.

6 9. TRAINING. THE OFFICE OF COURT ADMINISTRATION SHALL ESTABLISH AN
7 EDUCATIONAL PROGRAM FOR ALL JUDGES AND JUSTICES OF THE UNIFIED COURT
8 SYSTEM TO INSURE THAT SUCH JUDGES AND JUSTICES ARE AWARE OF THE
9 PROVISIONS OF THIS SECTION AND OF ANY IMPLEMENTING RULES, REGULATIONS
10 AND GUIDELINES.

11 10. RULES AND REGULATIONS. THE CHIEF ADMINISTRATOR SHALL PROMULGATE
12 APPROPRIATE RULES AND REGULATIONS FOR THE IMPLEMENTATION OF THE
13 PROVISIONS OF THIS SECTION AFTER AFFORDING ALL INTERESTED PERSONS, AGEN-
14 CIES AND INSTITUTIONS AN OPPORTUNITY TO REVIEW AND COMMENT THEREON.
15 SUCH RULES AND REGULATIONS SHALL INCLUDE PROVISIONS TO ENSURE THAT AUDI-
16 O-VISUAL COVERAGE OF TRIAL PROCEEDINGS SHALL NOT INTERFERE WITH THE
17 DECORUM AND DIGNITY OF COURTROOMS AND COURT FACILITIES.

18 11. MONITORING. THE OFFICE OF COURT ADMINISTRATION SHALL MONITOR THE
19 PROVISIONS OF THIS SECTION. IN DISCHARGE OF THIS DUTY, IT SHALL (A)
20 RECEIVE AND INVESTIGATE COMPLAINTS FROM TRIAL PARTICIPANTS, INCLUDING
21 JUDGES, ATTORNEYS AND JURORS, AND FROM MEMBERS OF THE PUBLIC AND THE
22 NEWS MEDIA IN CONNECTION WITH THE AUDIO-VISUAL COVERAGE OF JUDICIAL
23 PROCEEDINGS; (B) CONDUCT PERIODIC SURVEYS OF ATTORNEYS WHO HAVE PARTIC-
24 IPATED IN JUDICIAL PROCEEDINGS SUBJECT TO AUDIO-VISUAL COVERAGE TO
25 OBTAIN THEIR RESPECTIVE EVALUATIONS OF THE IMPACT OF SUCH COVERAGE UPON
26 THE PROCEEDINGS; AND (C) COMPILE DATA ON EACH APPLICATION FOR AUDIO-VI-
27 SUAL COVERAGE OF JUDICIAL PROCEEDINGS INCLUDING BUT NOT LIMITED TO THE
28 FOLLOWING INFORMATION: (I) THE NAMES, ADDRESSES AND TELEPHONE NUMBERS OF
29 THE APPLICANT, THE JUDGE TO WHOM THE APPLICATION WAS MADE AND THE ATTOR-
30 NEYS FOR THE PARTIES TO THE PROCEEDING INVOLVED; (II) THE COURT IN WHICH
31 THE APPLICATION WAS MADE; (III) PARTICULARS AS TO THE TYPE OF ACTION
32 INVOLVED (INCLUDING WHETHER IT WAS CIVIL OR CRIMINAL AND WHAT THE PRIN-
33 CIPAL CAUSES OF ACTION OR OFFENSES CHARGED WERE) AND THE STAGE OR STAGES
34 OF SUCH ACTION FOR WHICH COVERAGE WAS SOUGHT; (IV) THE NATURE AND EXTENT
35 OF THE COVERAGE APPLIED FOR; (V) WHETHER OBJECTIONS WERE MADE AND, IF
36 SO, BY WHOM AND ON WHAT GROUNDS; (VI) WHETHER THE APPLICATION WAS GRANT-
37 ED OR DENIED AND, IF GRANTED, WHAT IF ANY LIMITATIONS WERE IMPOSED ON
38 COVERAGE; (VII) WHERE THE APPLICATION WAS GRANTED, WHETHER SUCH GRANT
39 WAS SUBSEQUENTLY REVOKED OR MODIFIED; (VIII) THE NUMBER OF WITNESSES AND
40 VICTIMS, IF ANY, WHO REQUESTED THAT THEIR IMAGES AND/OR VOICES BE
41 OBSCURED; (IX) IF THE APPLICATION WAS MADE FOR COVERAGE OF A CRIMINAL
42 PROCEEDING, THE NATURE OF ANY SECURING ORDER ISSUED THEREIN AND THE
43 OUTCOME OF THE PROCEEDING INCLUDING THE DISPOSITION OF THE CHARGES THER-
44 EIN AND, IF THE DEFENDANT WAS CONVICTED WHAT SENTENCE WAS IMPOSED; (X)
45 WHETHER ANY COMPLAINTS WERE FILED WITH THE OFFICE OF COURT ADMINIS-
46 TRATION PURSUANT TO THIS SUBDIVISION AND, IF SO, THE NATURE OF SUCH
47 COMPLAINT. ALL INFORMATION AND DATA COLLECTED AND COMPILED PURSUANT TO
48 THIS SUBDIVISION FOR A CALENDAR YEAR SHALL BE INCLUDED IN THE REPORT OF
49 THE CHIEF ADMINISTRATIVE JUDGE FOR THAT YEAR REQUIRED BY PARAGRAPH (J)
50 OF SUBDIVISION ONE OF SECTION TWO HUNDRED TWELVE OF THIS ARTICLE.

51 S 2. This act shall take effect immediately, provided, however, that
52 subdivisions one through eight and subdivision eleven of section 218 of
53 the judiciary law as added by section one of this act shall take effect
54 on the one hundred twentieth day after it shall have become a law.