S T A T E O F N E W Y O R K

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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 218 of the judiciary law is REPEALED and a new section 218 is added to read as follows:

S 218. AUDIO-VISUAL COVERAGE OF JUDICIAL PROCEEDINGS. 1. AUTHORIZATION. NOTWITHSTANDING THE PROVISIONS OF SECTION FIFTY-TWO OF THE CIVIL RIGHTS LAW, AUDIO-VISUAL COVERAGE OF CIVIL AND CRIMINAL TRIAL PROCEEDINGS IS AUTHORIZED SUBJECT TO THE PROVISIONS OF THIS SECTION.

2. DEFINITIONS. FOR PURPOSES OF THIS SECTION:

(A) "ADMINISTRATIVE JUDGE" SHALL MEAN THE ADMINISTRATIVE JUDGE OF EACH JUDICIAL DISTRICT; THE ADMINISTRATIVE JUDGE OF NASSAU COUNTY OR OF SUFFOLK COUNTY; THE ADMINISTRATIVE JUDGE OF THE CIVIL COURT OF THE CITY OF NEW YORK OR OF THE CRIMINAL COURT OF THE CITY OF NEW YORK; OR THE PRESIDING JUDGE OF THE COURT OF CLAIMS.

(B) "AUDIO-VISUAL COVERAGE" SHALL MEAN THE ELECTRONIC BROADCASTING OR OTHER TRANSMISSION TO THE PUBLIC OF RADIO OR TELEVISION SIGNALS FROM THE COURTROOM, THE RECORDING OF SOUND OR LIGHT IN THE COURTROOM FOR LATER TRANSMISSION OR REPRODUCTION, OR THE TAKING OF STILL OR MOTION PICTURES IN THE COURTROOM BY THE NEWS MEDIA.

(C) "NEWS MEDIA" SHALL MEAN ANY NEWS REPORTING OR NEWS GATHERING AGENCY AND ANY EMPLOYEE OR AGENT ASSOCIATED WITH SUCH AGENCY, INCLUDING, BUT NOT LIMITED TO, TELEVISION, RADIO, RADIO AND TELEVISION NETWORKS, WIRED AND/OR WIRELESS INTERNET OR ONLINE OR OTHER SERVICES USING ANY MEANS OF TRANSMISSION, NEWS SERVICES, NEWSPAPERS, MAGAZINES, TRADE PAPERS, 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

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

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

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

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

4. SUPERVISION OF AUDIO-VISUAL COVERAGE; MANDATORY PRETRIAL CONFERENCE; JUDICIAL DISCRETION. (A) AUDIO-VISUAL COVERAGE OF A COURT PROCEEDING SHALL BE SUBJECT TO THE SUPERVISION OF THE PRESIDING TRIAL JUDGE. IN SUPERVISING AUDIO-VISUAL COVERAGE OF COURT PROCEEDINGS, IN PARTICULAR ANY WHICH INVOLVE LEWD MATTERS, A PRESIDING TRIAL JUDGE SHALL, WHERE NECESSARY FOR THE PROTECTION OF ANY PARTICIPANT OR TO PRESERVE THE WELFARE OF A MINOR, PROHIBIT ALL OR ANY PART OF THE AUDIO-VISUAL COVERAGE 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-

DURES FOR COST SHARING AND DISSEMINATION OF AUDIO-VISUAL MATERIAL ESTABLISHED. THE COURT SHALL NOT BE CALLED UPON TO MEDIATE OR RESOLVE ANY DISPUTE AS TO SUCH ARRANGEMENTS. IN MAKING POOLING ARRANGEMENTS, CONSIDERATION SHALL BE GIVEN TO EDUCATIONAL USERS' NEEDS FOR FULL COVERAGE OF ENTIRE PROCEEDINGS.

(B) SOUND AND LIGHT CRITERIA:

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

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

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

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

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

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

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

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

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

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

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

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

(B) NO CONFERENCE IN CHAMBERS SHALL BE SUBJECT TO AUDIO-VISUAL COVERAGE;

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

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

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

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

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

(H) NO AUDIO-VISUAL COVERAGE OF ANY ARRAIGNMENT, BAIL HEARING, SUPPRESSION HEARING, OR PRELIMINARY HEARING IN A CRIMINAL CASE, AND ALL PROCEEDINGS PURSUANT TO ARTICLE THREE OF THE FAMILY COURT ACT PRIOR TO A FACT-FINDING HEARING, SHALL BE PERMITTED WITHOUT THE PRIOR 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 180.10 OF THE CRIMINAL PROCEDURE LAW AND THE PARTY HAS AFFIRMATIVELY ELECTED TO PROCEED WITHOUT COUNSEL AT SUCH PROCEEDING;

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

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

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

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

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

8. VIOLATIONS. ANY VIOLATION OF AN ORDER OR DETERMINATION ISSUED UNDER THIS SECTION SHALL BE PUNISHABLE AS A CONTEMPT PURSUANT TO ARTICLE NINETEEN OF THIS CHAPTER.

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

10. RULES AND REGULATIONS. THE CHIEF ADMINISTRATOR SHALL PROMULGATE APPROPRIATE RULES AND REGULATIONS FOR THE IMPLEMENTATION OF THE PROVISIONS OF THIS SECTION AFTER AFFORDING ALL INTERESTED PERSONS, AGENCIES AND INSTITUTIONS AN OPPORTUNITY TO REVIEW AND COMMENT THEREON. SUCH RULES AND REGULATIONS SHALL INCLUDE PROVISIONS TO ENSURE THAT AUDIO-VISUAL COVERAGE OF TRIAL PROCEEDINGS SHALL NOT INTERFERE WITH THE DECORUM AND DIGNITY OF COURTROOMS AND COURT FACILITIES.

11. MONITORING. THE OFFICE OF COURT ADMINISTRATION SHALL MONITOR THE PROVISIONS OF THIS SECTION. IN DISCHARGE OF THIS DUTY, IT SHALL (A) RECEIVE AND INVESTIGATE COMPLAINTS FROM TRIAL PARTICIPANTS, INCLUDING JUDGES, ATTORNEYS AND JURORS, AND FROM MEMBERS OF THE PUBLIC AND THE NEWS MEDIA IN CONNECTION WITH THE AUDIO-VISUAL COVERAGE OF JUDICIAL PROCEEDINGS; (B) CONDUCT PERIODIC SURVEYS OF ATTORNEYS WHO HAVE PARTICIPATED IN JUDICIAL PROCEEDINGS SUBJECT TO AUDIO-VISUAL COVERAGE TO OBTAIN THEIR RESPECTIVE EVALUATIONS OF THE IMPACT OF SUCH COVERAGE UPON THE PROCEEDINGS; AND (C) COMPILE DATA ON EACH APPLICATION FOR AUDIO-VISUAL COVERAGE OF JUDICIAL PROCEEDINGS INCLUDING BUT NOT LIMITED TO THE FOLLOWING INFORMATION: (I) THE NAMES, ADDRESSES AND TELEPHONE NUMBERS OF THE APPLICANT, THE JUDGE TO WHOM THE APPLICATION WAS MADE AND THE ATTORNEYS FOR THE PARTIES TO THE PROCEEDING INVOLVED; (II) THE COURT IN WHICH THE APPLICATION WAS MADE; (III) PARTICULARS AS TO THE TYPE OF ACTION INVOLVED (INCLUDING WHETHER IT WAS CIVIL OR CRIMINAL AND WHAT THE PRINCIPAL CAUSES OF ACTION OR OFFENSES CHARGED WERE) AND THE STAGE OR STAGES OF SUCH ACTION FOR WHICH COVERAGE WAS SOUGHT; (IV) THE NATURE AND EXTENT OF THE COVERAGE APPLIED FOR; (V) WHETHER OBJECTIONS WERE MADE AND, IF SO, BY WHOM AND ON WHAT GROUNDS; (VI) WHETHER THE APPLICATION WAS GRANTED OR DENIED AND, IF GRANTED, WHAT IF ANY LIMITATIONS WERE IMPOSED ON COVERAGE; (VII) WHERE THE APPLICATION WAS GRANTED, WHETHER SUCH GRANT WAS SUBSEQUENTLY REVOKED OR MODIFIED; (VIII) THE NUMBER OF WITNESSES AND VICTIMS, IF ANY, WHO REQUESTED THAT THEIR IMAGES AND/OR VOICES BE OBSCURED; (IX) IF THE APPLICATION WAS MADE FOR COVERAGE OF A CRIMINAL PROCEEDING, THE NATURE OF ANY SECURING ORDER ISSUED THEREIN AND THE OUTCOME OF THE PROCEEDING INCLUDING THE DISPOSITION OF THE CHARGES THEREIN AND, IF THE DEFENDANT WAS CONVICTED WHAT SENTENCE WAS IMPOSED; (X) WHETHER ANY COMPLAINTS WERE FILED WITH THE OFFICE OF COURT ADMINISTRATION PURSUANT TO THIS SUBDIVISION AND, IF SO, THE NATURE OF SUCH COMPLAINT. ALL INFORMATION AND DATA COLLECTED AND COMPILED PURSUANT TO THIS SUBDIVISION FOR A CALENDAR YEAR SHALL BE INCLUDED IN THE REPORT OF THE CHIEF ADMINISTRATIVE JUDGE FOR THAT YEAR REQUIRED BY PARAGRAPH (J) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TWELVE OF THIS ARTICLE.

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