

STATE OF NEW YORK

792--A

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sen. HOYLMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- recommitted to the Committee on Judiciary in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the judiciary law, in relation to audio-visual coverage of judicial proceedings; and to repeal section 218 of the judiciary law and section 52 of the civil rights law relating thereto

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 Section 218 of the judiciary law is REPEALED and a new section 218 is added to read as follows:

§ 218. Audio-visual coverage of judicial proceedings. 1. Authorization. Subject to the authority of the judge or justice presiding over the proceeding to exercise sound discretion to prohibit filming or photographing of particular participants in judicial proceedings to ensure safety and the fair administration of justice, audio-visual and still photography coverage of public judicial proceedings in the appellate and trial courts of this state shall be allowed in accordance with this section.

2. Equipment and personnel. The following shall be permitted in any trial or appellate court proceeding:

(a) At least two compact video cameras, each operated by no more than one camera person. Additional permitted cameras shall be within the sole discretion and authority of the judge or justice presiding over the proceeding.

(b) Not more than two still photographers, using not more than two still cameras each.

(c) Not more than one audio system for radio broadcast purposes. Audio pickup for all media purposes shall be provided by existing audio

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

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1 systems present in the courtroom. If no technically suitable audio
2 system exists in the courtroom, microphones and related wiring essential
3 for media purposes shall be permissible provided they are unobtrusive
4 and shall be located in places designated in advance of any proceeding
5 by the judge or justice presiding over the proceeding.

6 (d) Any pooling arrangements among members of the media concerning
7 equipment and personnel shall be the sole responsibility of such members
8 without calling upon the judge or justice presiding over the proceeding
9 to mediate any dispute as to the appropriate media representative or
10 equipment authorized to cover a particular proceeding. In the absence of
11 advance media agreement concerning disputed equipment or personnel
12 issues, the judge or justice presiding over the proceeding may exclude
13 all contesting media personnel from a proceeding.

14 3. Livestreaming. (a) Within six months of the effective date of this
15 section, and subject to appropriation by the legislature, the chief
16 administrator of the courts shall provide for:

17 (i) the installation and maintenance of cameras in all Supreme, Coun-
18 ty, City, and Appellate courtrooms;

19 (ii) the transmission of live proceedings on a publicly available
20 website, free of charge, in audio-visual form; and

21 (iii) the preservation of all recordings in archival form on a public-
22 ly available website for continued access, free of charge.

23 (b) Within eighteen months of the effective date of this section, and
24 subject to appropriation by the legislature, the chief administrator of
25 the courts shall provide for:

26 (i) the installation and maintenance of cameras in all Family, Town,
27 and Village courtrooms;

28 (ii) transmission of live proceedings on a publicly available website,
29 free of charge, in audio-visual form; and

30 (iii) preservation of all recordings in archival form on a publicly
31 available website for continued access, free of charge.

32 4. Sound and light criteria. Video and audio equipment, including
33 still camera equipment, whether film or digital, shall not be permitted
34 if it produces disorienting sound or light. No artificial lighting
35 device of any kind shall be used in connection with the video equipment
36 or still camera.

37 5. Location of equipment personnel. Video camera equipment and still
38 camera photographers shall be positioned in such location in the court-
39 room as shall be designated by the chief administrative judge of the
40 court or the chief administrative judge's designee. The area designated
41 shall provide reasonable access to coverage of the proceedings. Still
42 camera photographers shall assume a fixed position within the designated
43 area and shall not be permitted to move about to obtain photographs of
44 court proceedings. Media representatives shall not move about the court
45 facility while proceedings are in session, and microphones or taping
46 equipment shall not be moved during the pendency of the proceeding.

47 6. Equipment movement during proceedings. News media photographic or
48 audio equipment shall not be placed in or removed from the court facili-
49 ty except before commencement or after adjournment of proceedings each
50 day, or during a recess. Neither video cassettes or film magazines nor
51 still camera film, digital media cards or lenses shall be changed within
52 a courtroom except during a recess in the proceeding.

53 7. Courtroom light sources. With the concurrence of the chief adminis-
54 trative judge of the court, modifications and additions may be made in
55 light sources existing in the courtroom, provided such modifications or
56 additions are installed and maintained without public expense.

1 8. Conferences of counsel. To protect the attorney-client privilege
2 and the effective right to counsel, there shall be no audio pickup or
3 broadcast of conferences that occur in a courtroom between attorneys and
4 their clients, between co-counsel of a client, or between counsel and
5 the presiding judge held at the bench.

6 9. Impermissible use of media material. Film, digital files, vide-
7 otape, still photographs, or audio reproductions captured or recorded
8 during or by virtue of coverage of a judicial proceeding shall not be
9 admissible as evidence in the proceeding out of which it arose, in any
10 proceeding subsequent or collateral thereto, or upon retrial or appeal
11 of such proceedings.

12 10. Written order. An order restricting audio-visual coverage with
13 respect to a particular participant shall be in writing and be included
14 in the record of such proceeding. The order must state good cause why
15 such coverage will have a substantial effect upon the individual which
16 would be qualitatively different from the effect on members of the
17 public in general and that such effect will be qualitatively different
18 from coverage by other types of media. Before prohibiting audio-visual
19 coverage, the presiding judge must first consider the imposition of
20 special limitations, such as a delayed or modified still or audio-visual
21 coverage of the proceedings.

22 11. Closing the courtroom. No audio-visual coverage or livestreaming
23 will be permitted during any period in which the courtroom is lawfully
24 closed to the general public in accordance with the United States and
25 New York Constitutions, New York law and court rules.

26 12. Appellate review. Interlocutory review of an order restricting
27 audio-visual coverage shall be expedited in accordance with the rules of
28 the applicable appellate court.

29 13. Regulations. The provisions of this act shall supersede any
30 provision to the contrary in Part 131 of the Rules of the Chief Adminis-
31 trative Judge, 22 NYCRR Part 131, Part 29 of the Rules of the Chief
32 Judge, 22 NYCRR Part 29, and any other court rule regarding audio-visual
33 coverage of judicial proceedings.

34 § 2. Section 52 of the civil rights law is REPEALED.

35 § 3. Subdivision 5 of section 751 of the judiciary law, as added by
36 chapter 187 of the laws of 1992, is amended to read as follows:

37 5. Where any member of the [~~news~~] media as [~~defined in subdivision two~~
38 ~~of~~] referenced in section two hundred eighteen of this chapter, willful-
39 ly disobeys a lawful mandate of a court issued pursuant to such section,
40 the punishment for each day that such contempt persists may be by a fine
41 fixed in the discretion of the court, but not to exceed five thousand
42 dollars per day or imprisonment, not exceeding thirty days, in the jail
43 of the county where the court is sitting or both, in the discretion of
44 the court. In fixing the amount of the fine, the court shall consider
45 all the facts and circumstances directly related to the contempt,
46 including, but not limited to: (i) the extent of the willful defiance of
47 or resistance to the court's mandate, (ii) the amount of gain obtained
48 by the willful disobedience of the mandate, and (iii) the effect upon
49 the public and the parties to the proceeding of the willful disobedi-
50 ence.

51 § 4. This act shall take effect on the ninetieth day after it shall
52 have become a law.