STATE OF NEW YORK

712--A

2023-2024 Regular Sessions

IN ASSEMBLY

January 11, 2023

Introduced by M. of A. WEPRIN, SOLAGES, SEAWRIGHT, CRUZ, PAULIN, BURDICK, SEPTIMO, HEVESI, SIMON, AUBRY, SILLITTI, SIMONE, BICHOTTE HERMELYN, DICKENS, SHIMSKY, GUNTHER, GLICK, TAPIA, WALLACE, COOK, McMAHON, DAVILA -- read once and referred to the Committee on Judiciary -- recommitted to the Committee on Judiciary in accordance with Assembly Rule 3, sec. 2 -- 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 Section 218 of the judiciary law is REPEALED and a new section 218 is added to read as follows: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) At least one still photographer, using not more than two still cameras.

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

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(c) At least one audio system for radio broadcast purposes. Audio pickup for all media purposes shall be provided by existing audio systems present in the courtroom. If no technically suitable audio system exists in the courtroom, microphones and related wiring essential for media purposes shall be permissible provided they are unobtrusive and shall be located in places designated in advance of any proceeding by the judge or justice presiding over the proceeding.

(d) Additional permitted equipment or personnel shall be within the sole discretion and authority of the judge or justice presiding over the proceeding.

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

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

4. Location of equipment personnel. Video camera equipment and still camera photographers shall be positioned in such location or locations in the courtroom as shall be designated by the chief administrative judge of the court or the chief administrative judge's designee. The area designated shall provide reasonable access to coverage of the proceedings. Still camera photographers shall assume a fixed position within the designated area and shall not be permitted to move about to obtain photographs of court proceedings. Media representatives shall not move about the court facility while proceedings are in session, and microphones or taping equipment shall not be moved during the pendency of the proceeding.

5. Equipment movement during proceedings. News media photographic or audio equipment shall not be placed in or removed from the court facility except before commencement or after adjournment of proceedings each day, or during a recess. Neither video cassettes or film magazines nor still camera film, digital media cards or lenses shall be changed within a courtroom except during a recess in the proceeding.

6. Courtroom light sources. With the concurrence of the chief administrative judge of the court, modifications and additions may be made in light sources existing in the courtroom, provided such modifications or additions are installed and maintained without public expense.

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

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

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

(b) A presumption of good cause shall exist with respect to the testimony of minors.

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

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

12. Regulations. The provisions of this act shall supersede any provision to the contrary in Part 131 of the Rules of the Chief Administrative Judge, 22 NYCRR Part 131, Part 29 of the Rules of the Chief Judge, 22 NYCRR Part 29, and any other court rule regarding audio-visual coverage of judicial proceedings.

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

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

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

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