

# STATE OF NEW YORK

160

2023-2024 Regular Sessions

## IN SENATE

(Prefiled)

January 4, 2023

Introduced by Sen. HOYLMAN -- 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 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:

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 Section 218 of the judiciary law is REPEALED and a new  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

3 § 218. Audio-visual coverage of judicial proceedings. 1. Authori-  
4 zation. Subject to the authority of the judge or justice presiding over  
5 the proceeding to exercise sound discretion to prohibit filming or  
6 photographing of particular participants in judicial proceedings to  
7 ensure safety and the fair administration of justice, audio-visual and  
8 still photography coverage of public judicial proceedings in the appel-  
9 late and trial courts of this state shall be allowed in accordance with  
10 this section.

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

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

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

19 (c) Not more than one audio system for radio broadcast purposes.  
20 Audio pickup for all media purposes shall be provided by existing audio  
21 systems present in the courtroom. If no technically suitable audio  
22 system exists in the courtroom, microphones and related wiring essential  
23 for media purposes shall be permissible provided they are unobtrusive

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

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1 and shall be located in places designated in advance of any proceeding  
2 by the judge or justice presiding over the proceeding.

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

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

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

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

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

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

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

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

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

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

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

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

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

54 8. Conferences of counsel. To protect the attorney-client privilege  
55 and the effective right to counsel, there shall be no audio pickup or  
56 broadcast of conferences that occur in a courtroom between attorneys and

1 their clients, between co-counsel of a client, or between counsel and  
2 the presiding judge held at the bench.

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

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

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

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

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

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

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

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

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