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## HOUSE BILL NO. 1249

Offered January 22, 1996

A BILL to amend and reenact § 19.2-266 of the Code of Virginia, relating to television coverage of criminal trials.

Patrons—O'Brien, Marshall and Nelms

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:****1. That § 19.2-266 of the Code of Virginia is amended and reenacted as follows:**

§ 19.2-266. Exclusion of persons from trial; photographs and broadcasting permitted under designated guidelines; exceptions.

In the trial of all criminal cases, whether the same be felony or misdemeanor cases, the court may, in its discretion, exclude from the trial any persons whose presence would impair the conduct of a fair trial, provided that the right of the accused to a public trial shall not be violated.

A court may solely in its discretion permit the taking of photographs in the courtroom during the progress of judicial proceedings and the broadcasting of judicial proceedings by radio or television and the use of electronic or photographic means for the perpetuation of the record or parts thereof in criminal and in civil cases, but only in accordance with the rules set forth hereunder. In addition to such rules, the Supreme Court and the Court of Appeals shall have the authority to promulgate any other rules they deem necessary to govern electronic media and still photography coverage in their respective courts. The following rules shall serve as guidelines, and a violation of these rules may be punishable as contempt:

**Coverage Allowed.**

1. The presiding judge shall at all times have authority to prohibit, interrupt or terminate electronic media and still photography coverage of public judicial proceedings. The presiding judge shall advise the parties of such coverage in advance of the proceedings and shall allow the parties to object thereto. For good cause shown, the presiding judge may prohibit coverage in any case and may restrict coverage as he deems appropriate to meet the ends of justice.

2. Coverage of the following types of judicial proceedings shall be prohibited: adoption proceedings, juvenile proceedings, child custody proceedings, divorce proceedings, temporary and permanent spousal support proceedings, proceedings concerning sexual offenses, proceedings for the hearing of motions to suppress evidence, proceedings involving trade secrets, and in camera proceedings. *No television broadcast of actual criminal proceedings shall be permitted during the progress of those judicial proceedings. However, once a verdict has been accepted and recorded by the court, television broadcast of the recorded criminal proceedings may occur subject to the provisions of this section.*

3. Coverage of the following categories of witnesses shall be prohibited: police informants, minors, undercover agents and victims and families of victims of sexual offenses.

4. Coverage of jurors shall be prohibited expressly at any stage of a judicial proceeding, including that portion of a proceeding during which a jury is selected. The judge shall inform all potential jurors at the beginning of the jury selection process of this prohibition.

5. To protect the attorney-client privilege and the right to counsel, there shall be no recording or broadcast of sound from such conferences which occur in a court facility between attorneys and their clients, between co-counsel of a client, between adverse counsel, or between counsel and the presiding judge held at the bench or in chambers.

**Location of Equipment and Personnel.**

1. The location of recording and camera equipment shall be strictly regulated so as not to be intrusive.

2. Media personnel shall not enter or leave the courtroom once the proceedings are in session except during a court recess or adjournment.

3. Electronic media equipment and still photography equipment shall not be taken into the courtroom or removed from the designated media area except at the following times:

- a. Prior to the convening of proceedings;
- b. During any luncheon recess;
- c. During any court recess with the permission of the trial judge; and
- d. After adjournment for the day of the proceedings.

**Official Representatives of the Media.**

The Virginia Association of Broadcasters and the Virginia Press Association may designate one

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person to represent the television media, one person to represent the radio broadcasters, and one person to represent still photographers in each jurisdiction in which electronic media and still photographic coverage is desired. The names of the persons so designated shall be forwarded to the chief judge of the court in the county or city in which coverage is desired so that arrangements can be made for the "pooling" of equipment and personnel. Such persons shall also be the only persons authorized to speak for the media to the presiding judge concerning the coverage of any judicial proceedings.

Equipment and Personnel.

1. No distracting lights or sounds shall be permitted.

2. Not more than two television cameras shall be permitted in any proceeding.

3. Not more than one still photographer, utilizing not more than two still cameras with not more than two lenses for each camera and related equipment for print purposes, shall be permitted in any proceeding.

4. Not more than one audio system for broadcast purposes shall be permitted in any proceeding.

Audio pickup for all media purposes shall be accomplished with existing audio systems present in the court facility. If no technically suitable audio system exists in the court facility, microphones and related wiring essential for media purposes may be installed and maintained at media expense. The microphones and wiring must be unobtrusive and shall be located in places designated in advance of any proceeding by the chief judge of the court in which coverage is desired.

5. Any "pooling" arrangements among the media required by these limitations on equipment and personnel shall be the sole responsibility of the media without calling upon the presiding judge 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 on disputed equipment or personnel issues, the presiding judge may exclude all contesting media personnel from a proceeding.

6. In no event shall the number of personnel in the designated area exceed the number necessary to operate the designated equipment.

7. Only television photographic and audio equipment which does not produce distracting sound or light shall be employed to cover judicial proceedings. No artificial lighting device of any kind shall be employed in connection with the television camera.

8. Only still camera equipment which does not produce distracting sound or light shall be employed to cover judicial proceedings. No artificial lighting device of any kind shall be employed in connection with a still camera.

9. With the concurrence of the chief judge of the court in which coverage is desired, modifications and additions may be made in light sources existing in the facility, provided such modifications or additions are installed and maintained without public expense.

Impermissible Use of Media Material.

None of the film, video tape, still photographs or audio reproductions developed during or by virtue of coverage of a judicial proceeding shall be admissible as evidence (i) in the proceeding out of which it arose, (ii) in any proceeding subsequent and collateral thereto, or (iii) upon any retrial or appeal of such proceedings.

All electronic media and still photography coverage of public judicial proceedings authorized by this section, with the exception of electronic or photographic means authorized for the perpetuation of the record or parts thereof shall be conducted at no cost to the Commonwealth.