

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5307

To amend title 28, United States Code, with respect to photographing,  
recording, and broadcasting court proceedings.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 29, 1994

Mr. SCHUMER introduced the following bill; which was referred to the  
Committee on the Judiciary

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## A BILL

To amend title 28, United States Code, with respect to  
photographing, recording, and broadcasting court pro-  
ceedings.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. FINDINGS.**

4       The Congress finds that—

5               (1) the right to public trials and other court  
6       proceedings is protected by the First and Sixth  
7       Amendments to the Constitution;

8               (2) while members of the public once commonly  
9       attended trials in person, today they must rely on

1 the print and electronic media to learn about court  
2 proceedings;

3 (3) Americans' understanding of the courts and  
4 their important work, as well as respect for the judi-  
5 cial system, is enhanced when photographic and elec-  
6 tronic media coverage is permitted;

7 (4) while 47 States now allow photographic and  
8 electronic media coverage of some or all of their  
9 courts, Federal courts have been entirely closed to  
10 such coverage, aside from a limited experimental  
11 program;

12 (5) the presence of cameras and microphones in  
13 the courtroom does not deny litigants due process of  
14 law, or interfere with the fundamental fairness of  
15 the trial, as the Supreme Court recognized more  
16 than a decade ago in *Chandler v. Florida*; and

17 (6) photographic and electronic media coverage  
18 of the courts does not, when appropriately regulated,  
19 either disrupt the proceedings or undermine the fair  
20 administration of justice.

21 **SEC. 2. MEDIA COVERAGE OF COURT PROCEEDINGS.**

22 Chapter 111 of title 28, United States Code, is  
23 amended by adding at the end the following new section:

24 **“§ 1659. Media coverage of court proceedings**

25 “(a) MEDIA COVERAGE.—

1           “(1) IN CRIMINAL PROCEEDINGS.—The Judicial  
2 Conference shall, within 1 year after the effective  
3 date of this section, authorize an experimental pro-  
4 gram in which the presiding judge of a court of the  
5 United States may, in his or her discretion, and sub-  
6 ject to the provisions of this section, permit photo-  
7 graphic or electronic media coverage of criminal  
8 court proceedings, including trials. At least 15 Fed-  
9 eral judicial districts shall participate in the experi-  
10 mental program.

11           “(2) IN CIVIL PROCEEDINGS.—Any presiding  
12 judge of a court of the United States may, in his or  
13 her discretion, and subject to the provisions of this  
14 section, permit photographic or electronic media cov-  
15 erage of civil court proceedings, including trials.

16           “(3) GENERAL LIMITATIONS.—The court may  
17 in any case refuse, limit, or terminate photographic  
18 or electronic media coverage in the interests of jus-  
19 tice to protect the rights of the parties and the dig-  
20 nity of the court, or to assure the fair administra-  
21 tion of justice. No changes in the scheduling, form,  
22 or procedure of any court proceeding may be made,  
23 by virtue of this section, for the benefit of the media  
24 in providing photographic or electronic media cov-  
25 erage under this section.

1 “(b) PERMISSION TO USE MEDIA COVERAGE.—

2 “(1) REQUESTS FOR PERMISSION.—A request  
3 for permission to use photographic or electronic  
4 media coverage of a court proceeding under this sec-  
5 tion shall be made on a form approved by the Judi-  
6 cial Conference that is filed within a reasonable time  
7 before the portion of the proceeding for which media  
8 coverage is requested. The clerk of the court shall  
9 promptly notify the parties to the proceeding of the  
10 request.

11 “(2) ACTION OF THE COURT ON REQUESTS.—  
12 A decision of the court granting or denying a re-  
13 quest for photographic or electronic media coverage  
14 shall be in writing and shall be included in the  
15 record of the court proceedings. A decision to permit  
16 such coverage shall contain any restrictions imposed  
17 by the judge on the photographic or electronic media  
18 coverage and shall contain a statement advising the  
19 parties that any violation of the rules of the court  
20 with respect to such permission may be punished by  
21 the court as a contempt thereof. A decision of the  
22 court under this paragraph to grant or deny a re-  
23 quest for photographic or electronic media coverage  
24 may be set aside on review only if it is found to be  
25 an abuse of discretion.

1           “(3) PRETRIAL CONFERENCE.—A pretrial con-  
2           ference shall be held in each case in which photo-  
3           graphic or electronic media coverage of a proceeding  
4           has been approved. At such conference, the presiding  
5           judge shall review with counsel and the media who  
6           will participate in the photographic or electronic  
7           media coverage the restrictions to be imposed on  
8           such coverage. Counsel shall convey to the court any  
9           concerns of prospective witnesses with respect to the  
10          photographic or electronic media coverage.

11          “(c) PROHIBITED COVERAGE.—

12           “(1) PROHIBITIONS.—Proceedings held in  
13          chambers, proceedings closed to the public, and jury  
14          selection shall not be photographed, recorded, or  
15          broadcast under this section. The testimony of police  
16          informants, minors, undercover agents, and in cases  
17          involving sex offenses, the victim and family of the  
18          victim, shall not be photographed, recorded, or  
19          broadcast under this section. Conferences between  
20          an attorney and a client, witness, or aide, between  
21          attorneys, or between counsel and the court at the  
22          bench shall not be recorded or received by sound  
23          equipment. Closeup photography of jurors is prohib-  
24          ited.

1           “(2) ARRAIGNMENTS AND SUPPRESSION HEAR-  
2           INGS.—Photographic or electronic media coverage of  
3           arraignments and suppression hearings shall not be  
4           permitted unless the proceedings are open to the  
5           public.

6           “(3) WITNESSES AT CRIMINAL TRIALS.—Upon  
7           the request of a witness in any criminal proceeding  
8           for which photographic or electronic media coverage  
9           is permitted under this section, the presiding judge  
10          may, for good cause shown based on the cir-  
11          cumstances of that witness, order that the visual  
12          image of the witness be obscured.

13          “(d) EQUIPMENT AND PERSONNEL.—The court may  
14          require media personnel to demonstrate that equipment  
15          proposed to be used for photographic or electronic media  
16          coverage under this section complies with this section. The  
17          court may specify the placement of media personnel and  
18          equipment to permit reasonable coverage without interrup-  
19          tion of the proceedings. Unless the court in its discretion  
20          orders otherwise, the following applies:

21                  “(1) Only 2 television cameras and 2 still pho-  
22                  tographers, with not more than 4 cameras and 6  
23                  lenses, are permitted.

1           “(2) Equipment shall not produce distracting  
2           sound or light. Signal lights or devices indicating  
3           when equipment is operating shall not be visible.

4           “(3) If the court permits existing courtroom  
5           sound and lighting systems to be modified, the modi-  
6           fications shall be installed, maintained, and removed  
7           without cost to the Federal Government. Micro-  
8           phones and wiring shall be unobtrusively located in  
9           places approved by the court and shall be operated  
10          by 1 person.

11          “(4) Operators shall not move equipment or  
12          enter or leave the courtroom while the court is in  
13          session, or otherwise cause a distraction.

14          “(5) Equipment or clothing shall not bear the  
15          insignia or marking of a media agency.

16          “(e) POOLING.—If media agencies are unable to  
17          agree on arrangements for pooled coverage of a proceed-  
18          ing, the court shall deny photographic and electronic  
19          media coverage of the proceeding under this section.

20          “(f) OTHER PHOTOGRAPHING, RECORDING, OR  
21          BROADCASTING.—Any photographing, recording, or  
22          broadcasting of court proceedings, other than that per-  
23          mitted under this section, is prohibited unless specifically  
24          authorized by the court, except that the court may not  
25          waive any provision of subsection (c).

1 “(g) REVIEW COMMITTEE.—

2 “(1) CREATION.—There shall be created a com-  
3 mittee to evaluate whether photographic or elec-  
4 tronic media coverage of criminal court proceedings  
5 should be permitted after June 30, 1998, or whether  
6 such coverage so disrupts or interferes with the fair-  
7 ness of criminal court proceedings as to justify its  
8 prohibition.

9 “(2) MEMBERSHIP.—The committee shall con-  
10 sist of 16 members, 4 to be appointed by the Judi-  
11 cial Conference, 4 to be appointed by the Attorney  
12 General of the United States, 2 to be appointed by  
13 the Speaker of the House of Representatives, 2 to  
14 be appointed by the minority leader of the House of  
15 Representatives, 2 to be appointed by the majority  
16 leader of the Senate, and 2 to be appointed by the  
17 minority leader of the Senate. The chair of the com-  
18 mittee shall be appointed by the Judicial Conference.  
19 At least 1 member of the committee appointed by  
20 the Attorney General shall be a representative of the  
21 electronic news media, and at least 1 member of the  
22 committee appointed by the Judicial Conference  
23 shall be a trial judge who has had experience with  
24 photographic or electronic media coverage of court  
25 proceedings.

1           “(3) DUTIES.—The committee shall evaluate,  
2           analyze, and monitor the effect of media coverage of  
3           criminal court proceedings on the administration of  
4           justice. The Federal Judicial Center shall cooperate  
5           with the committee in connection with the review of  
6           the impact of photographic or electronic media cov-  
7           erage on criminal court proceedings. The committee  
8           may request participation and assistance from bar  
9           associations in carrying out its functions.

10           “(4) COMPENSATION.—The members of the  
11           committee shall serve without compensation for their  
12           services as members of the committee, except that  
13           each member of the committee who is not an officer  
14           or employee of the Federal Government may be al-  
15           lowed necessary and actual expenses incurred in the  
16           performance of his or her duties under this sub-  
17           section. Such expenses shall be paid by the Adminis-  
18           trative Office of the United States Courts.

19           “(5) RECOMMENDATIONS.—The committee  
20           shall make recommendations to the Congress and to  
21           the Judicial Conference with respect to the efficacy  
22           of the experimental program authorized by sub-  
23           section (a)(1), the effects of the program on the ad-  
24           ministration of justice, and whether the program

1 should be continued. Such recommendations shall be  
2 submitted not later than January 31, 1998.

3 “(h) RULES AND REGULATIONS.—The Judicial Con-  
4 ference shall promulgate appropriate rules to carry out  
5 this section after affording all interested persons, agen-  
6 cies, and institutions an opportunity to review and com-  
7 ment thereon. Such rules shall include provisions to ensure  
8 that the photographic or electronic media coverage of  
9 court proceedings does not interfere with the decorum and  
10 dignity of courtrooms and court facilities.

11 “(i) DEFINITIONS.—For purposes of this section—

12 “(1) the term ‘photographic or electronic media  
13 coverage’ means any recording or broadcasting of  
14 court proceedings by the media using television,  
15 radio, photographic, or recording equipment; and

16 “(2) the term ‘media’ or ‘media agency’ means  
17 any person or organization engaging in news gather-  
18 ing or reporting and includes any newspaper, radio  
19 or television station or network, news service, maga-  
20 zine, trade paper, in-house publication, professional  
21 journal, or other news reporting or news gathering  
22 agency.

23 “(j) TERMINATION OR EXTENSION OF PROGRAM.—

1           “(1) TERMINATION.—Subject to paragraph (2),  
2           the experimental program authorized by subsection  
3           (a)(1) shall terminate on June 30, 1998.

4           “(2) EXTENSION BY JUDICIAL CONFERENCE.—  
5           Paragraph (1) does not apply if the Judicial Con-  
6           ference extends the program authorized by sub-  
7           section (a)(1) and so notifies the Congress in writing  
8           before June 30, 1998. Such extension may apply to  
9           criminal proceedings in all judicial districts (subject  
10          to subsection (c)) and may apply until such time as  
11          the Judicial Conference provides otherwise.

12          “(k) INAPPLICABILITY OF RULE 53 OF THE RULES  
13          OF CRIMINAL PROCEDURE.—Rule 53 of the Federal Rules  
14          of Criminal Procedure does not apply during the period  
15          the program authorized by subsection (a)(1) (including  
16          any extension under subsection (j)(2)) is in effect.

17          “(l) INDEPENDENT ACTION BY JUDICIAL CON-  
18          FERENCE.—Nothing in this section precludes the Judicial  
19          Conference from authorizing photographic and electronic  
20          media coverage of criminal proceedings before the pro-  
21          gram authorized by subsection (a)(1) terminates.”.

22          **SEC. 3. CONFORMING AMENDMENT.**

23          The table of sections for chapter III of title 28,  
24          United States Code, is amended by adding at the end the  
25          following:

“1659. Media coverage of court proceedings.”.

1 **SEC. 4. EFFECTIVE DATE.**

2       This Act and the amendments made by this Act take  
3 effect on the date of the enactment of this Act.

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