

109TH CONGRESS
1ST SESSION

H. R. 2422

To allow media coverage of court proceedings.

IN THE HOUSE OF REPRESENTATIVES

MAY 18, 2005

Mr. CHABOT (for himself and Mr. DELAHUNT) introduced the following bill;
which was referred to the Committee on the Judiciary

A BILL

To allow media coverage of court proceedings.

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 makes the following findings:

5 (1) The right of the people of the United States
6 to freedom of speech, particularly as it relates to
7 comment on governmental activities, as protected by
8 the first amendment to the Constitution, cannot be
9 meaningfully exercised without the ability of the
10 public to obtain facts and information about the
11 Government upon which to base their judgments re-
12 garding important issues and events. As the United

1 States Supreme Court articulated in *Craig v. Har-*
2 *ney* (1947), “A trial is a public event. What tran-

3 spires in the court room is public property.”.

4 (2) The right of the people of the United States
5 to a free press, with the ability to report on all as-

6 pects of the conduct of the business of government,
7 as protected by the first amendment to the Constitu-

8 tion, cannot be meaningfully exercised without the
9 ability of the news media to gather facts and infor-

10 mation freely for dissemination to the public.

11 (3) The right of the people of the United States
12 to petition the Government to redress grievances,
13 particularly as it relates to the manner in which the
14 Government exercises its legislative, executive, and
15 judicial powers, as protected by the first amendment
16 to the Constitution, cannot be meaningfully exer-

17 cised without the availability to the public of infor-

18 mation about how the affairs of government are
19 being conducted. As the Supreme Court noted in
20 *Richmond Newspapers, Inc. v. Commonwealth of*

21 *Virginia* (1980), “People in an open society do not
22 demand infallibility from their institutions, but it is
23 difficult for them to accept what they are prohibited
24 from observing.”

1 (4) In the twenty-first century, the people of
2 the United States obtain information regarding judi-
3 cial matters involving the Constitution, civil rights,
4 and other important legal subjects principally
5 through the print and electronic media. Television,
6 in particular, provides a degree of public access to
7 courtroom proceedings that more closely approxi-
8 mates the ideal of actual physical presence than
9 newspaper coverage or still photography.

10 (5) Providing statutory authority for the courts
11 of the United States to exercise their discretion in
12 permitting televised coverage of courtroom pro-
13 ceedings would enhance significantly the access of
14 the people to the Federal judiciary.

15 (6) Inasmuch as the first amendment to the
16 Constitution prevents Congress from abridging the
17 ability of the people to exercise their inherent rights
18 to freedom of speech, to freedom of the press, and
19 to petition the Government for a redress of griev-
20 ances, it is good public policy for the Congress af-
21 firmatively to facilitate the ability of the people to
22 exercise those rights.

23 (7) The granting of such authority would assist
24 in the implementation of the constitutional guar-
25 antee of public trials in criminal cases, as provided

1 by the sixth amendment to the Constitution. As the
2 Supreme Court stated in *In re Oliver* (1948),
3 “Whatever other benefits the guarantee to an ac-
4 cused that his trial be conducted in public may con-
5 fer upon our society, the guarantee has always been
6 recognized as a safeguard against any attempt to
7 employ our courts as instruments of persecution.
8 The knowledge that every criminal trial is subject to
9 contemporaneous review in the forum of public opin-
10 ion is an effective restraint on possible abuse of judi-
11 cial power.”.

12 **SEC. 2. AUTHORITY OF PRESIDING JUDGE TO ALLOW**
13 **MEDIA COVERAGE OF COURT PROCEEDINGS.**

14 (a) **AUTHORITY OF APPELLATE COURTS.**—Notwith-
15 standing any other provision of law, the presiding judge
16 of an appellate court of the United States may, in his or
17 her discretion, permit the photographing, electronic re-
18 cording, broadcasting, or televising to the public of court
19 proceedings over which that judge presides.

20 (b) **AUTHORITY OF DISTRICT COURTS.**—

21 (1) **IN GENERAL.**—Notwithstanding any other
22 provision of law, any presiding judge of a district
23 court of the United States may, in his or her discre-
24 tion, permit the photographing, electronic recording,

1 broadcasting, or televising to the public of court pro-
2 ceedings over which that judge presides.

3 (2) **OBSCURING OF WITNESSES.**—(A) Upon the
4 request of any witness in a trial proceeding other
5 than a party, the court shall order the face and voice
6 of the witness to be disguised or otherwise obscured
7 in such manner as to render the witness unrecogniz-
8 able to the broadcast audience of the trial pro-
9 ceeding.

10 (B) The presiding judge in a trial proceeding
11 shall inform each witness who is not a party that the
12 witness has the right to request that his or her
13 image and voice be obscured during the witness’ tes-
14 timony.

15 (c) **ADVISORY GUIDELINES.**—The Judicial Con-
16 ference of the United States is authorized to promulgate
17 advisory guidelines to which a presiding judge, in his or
18 her discretion, may refer in making decisions with respect
19 to the management and administration of photographing,
20 recording, broadcasting, or televising described in sub-
21 sections (a) and (b).

22 **SEC. 3. DEFINITIONS.**

23 In this Act:

24 (1) **PRESIDING JUDGE.**—The term “presiding
25 judge” means the judge presiding over the court

1 proceeding concerned. In proceedings in which more
2 than one judge participates, the presiding judge
3 shall be the senior active judge so participating or,
4 in the case of a circuit court of appeals, the senior
5 active circuit judge so participating, except that—

6 (A) in en banc sittings of any United
7 States circuit court of appeals, the presiding
8 judge shall be the chief judge of the circuit
9 whenever the chief judge participates; and

10 (B) in en banc sittings of the Supreme
11 Court of the United States, the presiding judge
12 shall be the Chief Justice whenever the Chief
13 Justice participates.

14 (2) APPELLATE COURT OF THE UNITED
15 STATES.—The term “appellate court of the United
16 States” means any United States circuit court of ap-
17 peals and the Supreme Court of the United States.

18 **SEC. 4. SUNSET.**

19 The authority under section 2(b) shall terminate on
20 the date that is 3 years after the date of the enactment
21 of this Act.

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