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Two recently formed committees, the *Governor's Commission on Judicial Reform* and the *Judicial Branch Public Access Task Force*, are considering whether to allow expanded media coverage (e.g., cameras in the courtroom) in a wide variety of courtroom proceedings in our state, including criminal trial, appellate and Supreme Court proceedings. The issue of whether to allow expanded media coverage of court proceedings is just one aspect of the mission of these committees which is to consider ways to make our state judicial system more transparent, accessible and accountable to the public.

To accomplish these laudable public policy goals respecting our state court system, the committees are each attempting to perform a delicate balancing act which involves weighing the rights and interests of several constituencies including freedom of the press, freedom of speech, the public's right to know, the privacy interests and rights of the parties, and the privacy interests and rights of crime victims.

Allowing cameras in the courtroom can have important implications for the protection of the rights, interests and welfare of crime victims. Our state constitution affords crime victims certain rights that can be adversely affected by such expanded media coverage. Crime victims in our state have, among other rights, the right to be treated with fairness and respect and the right to be protected from the accused throughout the criminal justice process (State Constitution, Article 1, Section 8).

Within the context of criminal prosecutions, and in considering the propriety of allowing cameras in the courtroom, these state constitutional and statutory rights must be adequately protected. Any decisions made towards achieving the public policy goals of making our court system more transparent, accessible and accountable through expanding media coverage of courtroom proceedings must give appropriate consideration and weight to the rights of crime victims.

Although the public and the press share a constitutional right to be in attendance of court proceedings, there is no legal right of the press to televise court proceedings, as compared to covering such court proceedings held in an open courtroom without the use of electronic devices. Therefore, in deciding whether to allow cameras in the courtroom, the committees must give great weight to the state constitutional rights afforded crime victims vis-à-vis the media's interest in allowing cameras into the courtroom to better serve the public's right to know.

With respect to victims' state constitutional right to be treated with fairness and respect and the right to be reasonably protected from the accused throughout the criminal justice process, the following concerns should be strongly considered in protecting these and the many other rights our state affords crime victims:

- Commercial media coverage of criminal prosecutions that include video or audio segments, prior to the rendering of a verdict, would likely focus on the “sensational” thereby serving to distort and mislead the public and, further, risk putting the victim on trial.¹
- Exploiting the intimate details about the victim or about the crime can cause great harm to the personal integrity of the victim, especially a victim of violent crime, and particularly when such details are broadcast on a wide scale and in an incomplete, misleading or distorted manner.²
- There is a strong public policy in Connecticut that encourages citizens victimized by crime to report crime to law enforcement officials. Allowing cameras in the courtroom would likely serve to frustrate this vital public policy goal, particularly

¹ To paraphrase concerns typically related by crime victims in this regard: “Commercial news organizations have so little time to show what really goes on during a trial that the snippets of video they will show will be taken out of context. The important things that happen during a trial may not always be apparent to the person deciding which video clips will make it into the news story.”

“What the vast majority of the public sees or hears of an entire day’s proceedings is a 30-second blurb on the local news. In order to garner ratings, a TV news person will choose to show what is the most sensational and not what is truly representative of the day’s proceedings. How can any 30-second blurb educate at all? Such piecemeal coverage that focuses on the “sensational” is likely to distort and mislead and risks putting the victim on trial.”

“What if we video taped trials but only show them after the verdict has been rendered? I think the public has an interest in actually witnessing the justice process. Why can’t it be done after the fact instead of in real time? Certainly, the mission of the committees to make our judicial system more transparent, accessible and accountable can be adequately served in this way. At the same time, a victim’s concerns that s/he may be re-victimized by press coverage will be substantially allayed.”

“A reporter sitting in the courtroom, observing the proceedings and taking notes of what s/he observes is likely to be more sensitive to the concerns of crime victims when putting together the news story as compared to a reporter who, in putting together his/her story, is tempted by the availability of a segment of video that will, if included in the story, more effectively communicate the ‘sensational,’ even at the expense of the ‘factual’ and even at the expense of the victim’s safety and/or integrity.”

² In a recent homicide case, the defense attorney was allowed to go on a 10 minute tirade during closing argument attacking the character of the homicide victim. No evidence had been introduced to support these allegations against the victim and the prosecutor hadn’t “opened the door” to warrant any such attack on the victim’s character. Neither the prosecutor nor the judge made any effort to stop the attack. The victim’s surviving family members, all sitting in the courtroom, were seriously traumatized by the defense attorney’s attack on their deceased loved-one. The victim’s mother sat in the courtroom with tears flowing down her cheeks; she was speechless and shaking; she clearly evidenced a state of extreme anxiety. Her level of anxiety only worsened later when she realized that the news reporters sitting in the courtroom might actually include what was said by the defense attorney about her daughter in their news reports. If cameras had been allowed in the courtroom, this undoubtedly would have served to exacerbate the mother’s anxiety level since the tirade could have been disseminated to a larger audience using a much more potent mode of communication (i.e., visual images) vis-à-vis oral or written communication.

with respect to sexual assault and domestic violence crimes, and would likely have an adverse impact on the investigation and/or prosecution of such crimes.³

- The vital goals of making our judicial system more transparent, accessible and accountable can be fully achieved without infringing on the rights of crime victims and without subverting other vital public policy interests in the reporting, investigation and prosecution of crime.

As the state Victim Advocate, it is the undersigned's position that the public policy goals under consideration by these committees must and can be achieved in ways that honor and respect the rights of crime victims.

Before offering specific recommendations to the committees regarding the protection of crime victims' rights if cameras are allowed in the courtroom, I would like to take the opportunity to further discuss the following key issues.

Freedom of the Press, the Public's Right to Know and Crime Victims' Rights

Crime victims in Connecticut owe a debt of gratitude to the news media in our state. Over the years, media coverage of high profile cases and coverage of victim-related public events at the legislature, capitol and elsewhere has helped to heighten public awareness about the plight of crime victims and, in turn, has helped cause positive strides in public policy for crime victims in our state.

However, the type and nature of the coverage of court proceedings being proposed in the draft reports of the subcommittees dealing with the issue of allowing cameras in the courtroom raises a number of strong concerns for crime victims.

Despite the passionate arguments of the news media, federal and state courts in our nation have refused to recognize a First Amendment right to televise court proceedings. The First Amendment to the United States Constitution guarantees the press and the public a right of access to trial proceedings. Without the right to attend trials, which people have exercised for centuries, important aspects of freedom of speech and of the press could be frustrated. Although in our modern day society the general public acquires most, if not all, of its information about court proceedings through the press and electronic media, the press is not instilled with any special right of access.

³ Only 16% of rapes are ever reported to the police. That most rape victims report a fear of being identified and of public disclosure of the specifics of what is alleged to have occurred to him/her should be a driving force behind the protection of the rights afforded all sexual assault victims.

Only about half of domestic violence incidents are reported to police. The most common reasons for not reporting domestic violence to police are that victims view the incident as a personal or private matter, they fear retaliation from their abuser, and they do not believe that police will do anything about the incident.

The possibility of televised trials in sexual assault and domestic violence cases will further work to undermine the public policy interest in having crime victims come forward to report crime. Such coverage will further adversely impact the investigation and/or prosecution of crime to the extent that the victim of sexual assault or family violence may be required to serve as a witness at the trial.

Instead, the news media possesses the same right of access as the public . . . “so that they may report what people in attendance have seen and heard.” Richmond Newspapers, Inc. v. Virginia, 448 U.S. 555 (1980). As a result, the press has “no right to information about a trial superior to that of the general public.” Nixon v. Warner Communications, Inc. 435 U.S. 589 (1978). Thus, the press has a constitutional right to be in attendance of court proceedings but has no constitutional right to televise those court proceedings.

Conversely, crime victims in Connecticut have been afforded a number of state constitutional and statutory rights that must be honored and respected in any debate regarding the propriety of allowing cameras in the courtroom. For example, crime victims have a state constitutional right to be treated with fairness and respect and to be reasonably protected from the accused. Often, crime victims do not want to be televised or to have their cases televised out of concern that their privacy, safety and/or personal integrity will be jeopardized.

By law, the courtrooms in Connecticut are open to the public with few exceptions (e.g., juvenile delinquency and child abuse & neglect matters). Members of the public, including members of the media, are free to attend open court proceedings and to observe and to take notes of what is observed. There is no legal right of the press to televise a trial, as compared to covering a trial held in an open courtroom without the use of electronic devices. The constitutional right to a free press certainly does not require that cameras be admitted into the courtroom.

Because most court proceedings are already open to the public, what the committees are considering is not the *creation* of new rights to public access to remedy constitutional infirmities but, rather, the *expansion* of public access to court proceedings, by televising trials and other court proceedings, ostensibly to help educate the public regarding the workings of our justice system.

In view of the nature and status of the various rights and interests involved in deciding whether to allow cameras in the courtroom, the committees must give greater weight to the *constitutional and statutory rights* afforded crime victims as compared to that assigned to the media’s interest (a *privilege*) in allowing cameras into the courtroom to better serve the public’s right to know.

The committees must also avoid removing the discretion that our judges must have to adequately protect the rights of participants in our criminal justice system. Just as a trial judge has an affirmative constitutional duty to minimize the effects of prejudicial publicity surrounding a trial to safeguard the due process rights of the accused, and may take protective measures even when they are not strictly and inescapably necessary, so too in Connecticut does a trial judge have a duty to protect the state constitutional rights of crime victims.

Due to the sometimes unpredictable nature of trial proceedings (see footnote 2, *supra*), it is imperative that our judges have the ability to make decisions regarding media coverage throughout the proceedings, not just prior to the commencement of proceedings.

To adequately protect the constitutional rights of the parties and the crime victim, judges should not be required at any point during the proceedings, by either law or practice book rule, to be influenced by the commercial interests of the media in deciding whether to allow cameras in the courtroom.

The freedom of the press and freedom of speech and the public's right to know are all noble and worthy causes but, just as in other areas of society, we must set priorities every day of our lives where various liberties conflict.

Allowing the Commercial Media Access to Video of Courtroom Proceedings is Not Necessary for Accomplishing the Stated Mission of the Committees

Increasing the transparency, accessibility and accountability of our court system does not require that the press, particularly the commercial press, be allowed to broadcast segments of court proceedings before such proceedings are concluded.

Making the court system more transparent and accountable can be accomplished by allowing gavel-to-gavel recording of certain court proceedings for broadcast, without commentary, on CT-N. With respect to criminal trials, to protect the rights of crime victims, the broadcast of court proceedings should only be allowed to occur after a verdict in the case has been rendered. Such coverage would be sufficient in achieving the goal of educating the public regarding the workings of our justice system.

State agencies having a watchdog role over our justice system should have access to such recordings where, for example, a complaint has been filed against a particular judge or other member of the justice system.

To adequately protect the rights and interests of crime victims, cameras should not be allowed to cover matters involving sexual assault and domestic or family violence crimes. In all other cases, crime victims should be given notice of their right to object to the recording of the proceedings and an opportunity to be heard, on the record, with respect to their objection.

Allowing the commercial media to have access only to segments of video would not adequately serve to educate the public about the workings of our justice system nor would it provide for greater transparency or accountability. Rather, the broadcast of segments of video of court proceedings would likely serve only the interests of the commercial media while risking harm to crime victims.

Distinction between CT-N and the Commercial Media

There are important distinctions between an entity such as the Connecticut Television Network (CT-N) and the commercial media. Such distinctions should be considered in fashioning a way to achieve the express goals of the committees to make our judicial system more transparent, accessible and accountable without violating the rights of crime victims and the parties to criminal matters.

According to CT-N's website: "It is the mission of the Connecticut Network to provide Connecticut's citizens with access to unbiased information about state government deliberations and public policy events through *noncommercial* television coverage and other relevant technologies in order to *educate the public and advance the public's understanding* of political processes and the development of public policy." (Emphases added.)

Thus, CT-N is a not-for-profit company founded to educate citizens about state government. It covers events related to our state government without commentary, "spin," editing or sound bite quality. CT-N, in a sense, provides the public the "raw data" of state government activity. Such coverage would come closest to the experience of physically being in the courtroom. This is far different from the coverage typically provided by the commercial media whose more limited coverage of news is guided by, among other things, profit, ratings and competition.

The goals for these committees are not going to be served by expanding commercial media coverage but, rather, by full, unedited coverage such as that provided by CT-N.

With respect to allowing cameras in the courtrooms, the sound bite quality of commercial news coverage can seriously distort testimony, argument and other courtroom activity for the "jury at home." This type of coverage risks harming not only crime victims but also the public's confidence in our justice system, particularly in cases where the courtroom jury's verdict differs from the "jury at home's" verdict reached solely on formation obtained from commercial media coverage.

Recommendations

- No commercial, electronic media coverage of criminal matters involving sexual assault or domestic/family violence crimes.
- In cases not involving sexual assault or domestic/family violence crimes, crime victims shall be notified of their right to object to the recording and/or broadcasting of proceedings and shall have the right to be heard with respect to such objection.
- A remedy for any violation of a victim's right to notification or to be heard on the issue of allowing cameras in the court shall be established.
- Any committee formed whose function is to make decisions on a case-by-case basis regarding the recording of court proceedings, or any committee formed to handle appeals of such decisions, or any committee formed whose responsibilities include evaluating the success of any pilot project involving cameras in the courtroom, shall include at least one representative from the crime victim community. Such victim representative shall have no connection or affiliation with the Judicial Branch of state government.
- CT-N shall be solely responsible for the recording and archiving of such recordings of any and all judicial proceedings and, if a decision to broadcast is

made, for the gavel-to-gavel broadcasting of such proceedings without editing or commentary. Broadcasting of such proceedings shall not occur until after a verdict in the case has been rendered.

- CT-N shall be responsible for complying with requests from the public to view, copy, or in any other manner obtain access to recordings of court proceedings, after a verdict has been rendered, in accordance with the rules established for the dissemination and release of such recorded material.



General Assembly
January Session, 2007

Raised Bill No. 5258

LCO No. 901

00901 _____ JUD

Referred to Committee on Judiciary

Introduced by:

(JUD)

**AN ACT ADOPTING CERTAIN RECOMMENDATIONS OF THE GOVERNOR'S
COMMISSION ON JUDICIAL REFORM.**

[Proposed amendments offered by the Victim Advocate are highlighted in yellow.]

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective July 1, 2007*) For purposes of subparagraph (A) of subdivision (1) of section 1-200 and subdivision (1) of subsection (a) of section 1-212 of the general statutes, "administrative functions" means (1) all matters not directly related to judicial activities in, and discussions concerning, court cases, and (2) those matters that relate to the management of the internal institutional machinery of the Judicial Branch including, but not limited to, budgeting, accounting, rule-making, personnel, facilities, physical operations, docketing and scheduling.

Sec. 2. (NEW) (*Effective July 1, 2007*) (a) There is a presumption that all appellate proceedings in the Supreme Court and Appellate Court shall be open for broadcasting, televising, recording and photographing. Any person who objects to such broadcasting, televising, recording or photographing shall have the burden of proving that such activities unduly prejudice such person's interest.

(b) The Judicial Branch shall, in collaboration with interested parties, including the Victim Advocate, adopt rules of court regarding the use of video, audio and photographic equipment in the Supreme Court and the Appellate Court that will

provide for the reasonable coverage of the appellate proceedings without interfering with the fairness of such proceedings.

Sec. 3. (NEW) (*Effective July 1, 2007*) (a) There is established a pilot program for the broadcasting, televising, recording and photographing of certain proceedings in the Superior Court from July 1, 2007, to July 1, 2010. For the purposes of this section, "proceeding" means any matter which is being officially recorded, at which a judge and one or more parties or their counsel are present and for which a judicial decision is rendered.

(b) All court proceedings in a court that is part of the pilot program are presumed to be open for broadcasting, televising, recording and photographing. Any party, witness or crime victim who objects to such broadcasting, televising, recording or photographing of the proceeding has the burden of proving that such broadcasting, televising, recording or photographing will unduly prejudice such person's interest.

(c) Whenever a judge limits the broadcasting, televising, recording or photographing of a proceeding in a court that is part of the pilot program, the judge shall do so in the least restrictive manner that addresses the reason for such limitation giving due consideration to the protection of the identity of jurors, crime victims, informants, undercover agents, relocated witnesses, juveniles and individuals in comparable situations.

(d) The Judicial Branch shall collaborate with interested parties, including the Victim Advocate, and adopt rules of court to implement the pilot program.

(e) The Judicial Branch shall submit a report evaluating the pilot program to the joint standing committee on judiciary in accordance with section 11-4a of the general statutes not later than January 1, 2010.

Sec. 4. Section 46b-122 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

(a) All matters which are juvenile matters, as provided in section 46b-121, shall be kept separate and apart from all other business of the Superior Court as far as is practicable, except matters transferred under the provisions of section 46b-127, which matters shall be transferred to the regular criminal docket of the Superior Court. Any judge hearing a [juvenile] delinquency matter or a matter concerning a family with service needs may, during such hearing, exclude from the room in which such hearing is held any person whose presence is, in the court's opinion, not necessary, except that in delinquency proceedings, any victim shall not be excluded unless, after hearing from the parties and the victim and for good cause

shown, which shall be clearly and specifically stated on the record, the judge orders otherwise. For the purposes of this section, "victim" means a person who is the victim of a delinquent act, a parent or guardian of such person, the legal representative of such person or an advocate appointed for such person pursuant to section 54-221.

(b) Members of the public may attend proceedings in which a child or youth is alleged to be uncared for, neglected or dependent or is the subject of a petition for termination of parental rights, except that the court may exclude any person from such proceedings if the court determines, on a case-by-case basis, that such exclusion is warranted. In making such determination, the court may consider, among other factors, whether: (1) The person is causing or is likely to cause a disruption in the proceedings; (2) the presence of the person is objected to for a compelling reason by one of the parties, including the attorney for the child or youth or a guardian ad litem; (3) the privacy interests of individuals before the court and the need to protect the child or youth and other parties from harm requires that the person, or some or all observers, be excluded from the courtroom; (4) the presence of the person will inhibit testimony or the disclosure or discussion of information material to the proceedings; and (5) less restrictive alternatives to exclusion are unavailable or inappropriate to the circumstances of the particular case. The attendance of a member of the public at any such proceeding shall be subject to the availability of suitable space at the facility where such proceeding takes place. The court shall make its findings and determination on the record.

(c) If a member of the public is in attendance at any proceeding pursuant to subsection (b) of this section, the court shall consider, on a case-by-case basis, whether there is a compelling reason to issue an order prohibiting the member of the public from using or disseminating the name, address, photograph or other personally identifiable information about a child, youth, parent or guardian disclosed during the proceedings. In determining whether a compelling reason to issue such order exists, the court shall consider, among other factors: (1) The nature of the allegations; (2) the age and maturity of the child or youth; (3) the emotional well-being of the child or youth; (4) the potential harm to the child or youth if such information is disclosed; and (5) the public interest in disclosure.

(d) Nothing in this section shall be construed to affect the confidentiality of records of cases of juvenile matters as set forth in section 46b-124.

Sec. 5. Section 46b-138 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

(a) For the purpose of hearing any juvenile matter, the court may summon witnesses and compel their attendance.

(b) The conversations of the judge with a child or youth whose case is before the court shall be privileged, except that the judge shall share on the record with counsel and, if there is no counsel for the child or youth, with the parent of such child or youth, the knowledge gained in any private interview with such child or youth.

Sec. 6. (NEW) (*Effective July 1, 2007*) (a) Except as otherwise provided by law, there shall be a presumption that courtroom proceedings shall be open to the public.

(b) Except as provided in this section, and except as otherwise provided by law, the court shall not order that the public be excluded from any portion of a courtroom proceeding.

(c) Upon motion of any party or the crime victim, or upon its own motion, the court may order that the public be excluded from any portion of a courtroom proceeding only if the court concludes that such order is necessary to preserve an interest which is determined to override the public's interest in attending such proceeding. The court shall first consider reasonable alternatives to any such order and any such order shall be no broader than necessary to protect such overriding interest. An agreement of the parties to close the courtroom shall not constitute a sufficient basis for the issuance of such an order.

(d) In connection with any order issued pursuant to subsection (c) of this section, the court shall articulate the overriding interest being protected and shall specify its findings underlying such order. If any findings would reveal information entitled to remain confidential, those findings may be set forth in a sealed portion of the record. The time, date and scope of any such order shall be set forth in a writing signed by the court which upon issuance the court clerk shall immediately enter in the court file. The court shall order that a transcript of its decision be included in the file or prepare a memorandum setting forth the reasons for its order.

(e) A motion to close a courtroom proceeding shall be filed not less than fourteen days before the proceeding is scheduled to be heard. Notice to the public and to the crime victim shall be given of the time and place of the hearing on the motion and the public shall be given an opportunity to be heard on the motion under consideration. The motion itself may be filed under seal, where appropriate, with permission of the court.

Sec. 7. (NEW) (*Effective July 1, 2007*) (a) Except as otherwise provided by law, there shall be a presumption that documents filed with the court shall be available to the public.

(b) Except as provided in this section and except as otherwise provided by law, the court shall not order that any files, affidavits, documents or other materials on file with the court or filed in connection with a court proceeding be sealed or their disclosure limited.

(c) Upon written motion of any party or the crime victim, or upon its own motion, the court may order that files, affidavits, documents or other materials on file or lodged with the court or in connection with a court proceeding be sealed or their disclosure limited only if the court concludes that such order is necessary to preserve an interest which is determined to override the public's interest in viewing such materials. The court shall first consider reasonable alternatives to any such order and any such order shall be no broader than necessary to protect such overriding interest. An agreement of the parties to seal or limit the disclosure of documents on file with the court or filed in connection with a court proceeding shall not constitute a sufficient basis for the issuance of such an order.

(d) In connection with any order issued pursuant to subsection (c) of this section, the court shall articulate the overriding interest being protected and shall specify its findings underlying such order and the duration of such order. If any findings would reveal information entitled to remain confidential, those findings may be set forth in a sealed portion of the record. The time, date, scope and duration of any such order shall be set forth in a writing signed by the court which upon issuance the court clerk shall immediately enter in the court file. The court shall order that a transcript of its decision be included in the file or prepare a memorandum setting forth the reason for its order.

(e) Except as otherwise ordered by the court, a hearing on a motion to seal or limit the disclosure of affidavits, documents or other materials on file or lodged with the court or filed in connection with a court proceeding shall be scheduled so that notice to the public is given of the time and place of the hearing on the motion and to afford the public an opportunity to be heard on the motion under consideration. Notice of the time and place of the hearing on the motion shall be given to the crime victim and the crime victim shall be afforded an opportunity to be heard on the motion under consideration.

(f) (1) A motion to seal the contents of an entire court file shall be scheduled for a hearing to be held not less than fifteen days following the filing of the motion, unless the court otherwise directs, so that notice to the public is given of the time

and place of the hearing on the motion and to afford the public an opportunity to be heard on the motion under consideration.

(2) The court may issue an order sealing the contents of an entire court file only upon a finding that there is not available a more narrowly tailored method of protecting the overriding interest, such as redaction or sealing a portion of the file. The court shall state in its decision or order each of the more narrowly tailored methods that was considered and the reasons each such method was unavailable or inadequate.

(g) The provisions of this section shall not apply to settlement conferences or negotiations or to documents submitted to the court in connection with such conference or negotiations. The provisions of this section shall apply to settlement agreements which have been filed with the court or have been incorporated into a judgment of the court.

Sec. 8. Section 46b-11 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

Any case which is a family relations matter may be heard in chambers or, if a jury case, in a courtroom from which the public and press have been excluded, if the judge hearing the case determines that the welfare of any children involved or the nature of the case so requires and the procedures set forth in section 6 of this act are followed. The records and other papers in any family relations matter may be ordered by the court to be kept confidential and not to be open to inspection except upon order of the court or judge thereof for cause shown, if the procedures set forth in section 7 of this act are followed.

Sec. 9. Section 46b-49 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

When it considers it necessary in the interests of justice and the persons involved, the court shall, upon the motion of either party or of counsel for any minor children or on its own motion, and in accordance with the procedures set forth in section 6 of this act, direct the hearing of any matter under this chapter and sections 17b-743, 17b-744, 45a-257, 46b-1, 46b-6, 47-14g, 51-348a and 52-362 to be private. The court may exclude all persons except the officers of the court, a court reporter, the parties, their witnesses and their counsel.

Sec. 10. (NEW) (*Effective July 1, 2007*) A family support magistrate shall not exclude the public from a proceeding before such magistrate except in accordance with the procedures set forth in section 6 of this act and shall not seal documents on file or lodged with the magistrate or filed in connection with a

proceeding before the magistrate or limit the disclosure of such documents except in accordance with the procedures set forth in section 7 of this act.

Sec. 11. Section 51-51l of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

(a) Except as provided in subsection (d) of this section, the Judicial Review Council shall investigate every written complaint brought before it alleging conduct under section 51-51i, and may initiate an investigation of any judge, compensation commissioner or family support magistrate if (1) the council has reason to believe conduct under section 51-51i has occurred, or (2) previous complaints indicate a pattern of behavior which would lead to a reasonable belief that conduct under section 51-51i has occurred. The council shall, not later than five days after such initiation of an investigation or receipt of such complaint, notify by registered or certified mail any judge, compensation commissioner or family support magistrate under investigation or against whom such complaint is filed. A copy of any such complaint shall accompany such notice. The council shall also notify the complainant of its receipt of such complaint not later than five days thereafter. Any investigation to determine whether or not there is probable cause that conduct under section 51-51i has occurred shall be confidential and any individual called by the council for the purpose of providing information shall not disclose his knowledge of such investigation to a third party prior to the decision of the council on whether probable cause exists, unless the respondent requests that such investigation and disclosure be open, [provided] except that information known or obtained independently of any such investigation shall not be confidential and the council may disclose that it is conducting an investigation when such disclosure is deemed by the council to be in the public interest. The judge, compensation commissioner or family support magistrate shall have the right to appear and be heard and to offer any information which may tend to clear him of probable cause to believe he is guilty of conduct under section 51-51i. The judge, compensation commissioner or family support magistrate shall also have the right to be represented by legal counsel and examine and cross-examine witnesses. In conducting its investigation under this subsection, the council may request that a court furnish to the council a record or transcript of court proceedings made or prepared by a court reporter, assistant court reporter or monitor and the court shall, upon such request, furnish such record or transcript.

(b) The Judicial Review Council shall, not later than three business days after the termination of such investigation, notify the complainant, if any, and the judge, compensation commissioner or family support magistrate that the investigation has been terminated and the results thereof. If the council finds that conduct under section 51-51i has not occurred, but the judge, compensation

commissioner or family support magistrate has acted in a manner which gives the appearance of impropriety or constitutes an unfavorable judicial or magisterial practice, the council may issue an admonishment to the judge, compensation commissioner or family support magistrate recommending a change in judicial or magisterial conduct or practice. If an admonishment is issued, the council shall (1) notify the joint standing committee of the General Assembly having cognizance of matters relating to the judiciary that an admonishment was issued and provide said committee with the substance of the admonishment, including copies of the complaint file, and (2) inform the complainant, if any, that an admonishment was issued if the admonishment is the result of misconduct alleged in the complaint. [Except as provided in subdivision (1) of this subsection, the] The substance of the admonishment shall [not be disclosed to any person or organization] be a matter of public record.

(c) If a preliminary investigation indicates that probable cause exists that the judge, compensation commissioner or family support magistrate is guilty of conduct under section 51-51i, the council shall hold a hearing concerning the conduct or complaint. All hearings held pursuant to this subsection shall be open. A judge, compensation commissioner or family support magistrate appearing before such a hearing shall be entitled to counsel, to present evidence and to cross-examine witnesses. The council shall make a record of all proceedings pursuant to this subsection. The council, shall not later than thirty days after the close of such hearing, publish its findings together with a memorandum of its reasons therefor.

(d) No complaint against a judge, compensation commissioner or family support magistrate alleging conduct under section 51-51i shall be brought under this section but within one year from the date the alleged conduct occurred or was discovered or in the exercise of reasonable care should have been discovered, except that no such complaint may be brought more than three years from the date the alleged conduct occurred.

(e) Notwithstanding the provisions of subsections (a) and (b) of this section, the council shall disclose any information concerning complaints received by the council on and after January 1, 1978, investigations, and disposition of such complaints to the legislative program review and investigations committee when requested by the committee in the course of its functions, in writing and upon a majority vote of the committee, provided no names or other identifying information shall be disclosed.

(f) On and after December 19, 1991, any judge, compensation commissioner or family support magistrate who has been the subject of an investigation by the Judicial Review Council as a result of a complaint brought before [such] the

council may request that such complaint, investigation and the disposition of such complaint be open to public inspection.

(g) Whenever a complaint against a judge, compensation commissioner or family support magistrate is pending before the Judicial Review Council within the final year of the term of office of such judge, compensation commissioner or family support magistrate, the Judicial Review Council shall designate such complaint as privileged and shall conduct an expedited investigation and hearing so that its duties with respect to such complaint are completed in sufficient time to enable the Judicial Review Council to make its recommendation concerning any such judge to the Judicial Selection Commission and the Governor under section 51-51q in a timely manner.

Sec. 12. Section 12-242vv of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

Notwithstanding section 1-210, the secretary, his authorized agent or any other officer or employee of the state shall not disclose any information contained in any claim for compensation form, notice of individual condemnation and assessment of special damages and special benefits, statement of acceptance or any other related documents in any manner which would disclose the owner's identity except when distributing such information in the discharge of their duties pursuant to sections 12-242gg to 12-242nn, inclusive, provided the secretary, his authorized agent or any other officer or employee of the state may disclose such information to the Commissioner of Revenue Services or his authorized agent, upon written request by said commissioner or his authorized agent, when required by said commissioner in the course of duty or when there is reasonable cause to believe that any state law is being violated. [All court records containing such information shall be sealed unless the owner files a condemnation appeal pursuant to section 12-242kk or files any other motion, application or complaint with the court concerning the taking of rights pursuant to section 12-242gg.]

Sec. 13. Section 17a-688 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

[(a) All records maintained by the court of cases coming before it under the provisions of sections 17a-465a, 17a-673 and 17a-680 to 17a-690, inclusive, shall be sealed and available only to the respondent or the respondent's counsel unless the court, after hearing held with notice to the respondent, determines such record should be disclosed for cause shown.]

[(b)] (a) Medical treatment facilities shall keep and submit such records of all persons examined, admitted or treated pursuant to sections 17a-465a, 17a-673 and 17a-680 to 17a-690, inclusive, as may be required by the department.

[(c)] (b) No person, hospital or treatment facility may disclose or permit the disclosure of, nor may the department disclose or permit the disclosure of, the identity, diagnosis, prognosis or treatment of any such patient that would constitute a violation of federal statutes concerning confidentiality of alcohol or drug patient records and any regulations pursuant thereto, as such federal statutes and regulations may be amended from time to time. The department shall adopt regulations, in accordance with chapter 54, to protect the confidentiality of any such information that is obtained by the department.

[(d)] (c) If the person seeking treatment or rehabilitation for alcohol dependence or drug dependence is a minor, the fact that the minor sought such treatment or rehabilitation or that the minor is receiving such treatment or rehabilitation, shall not be reported or disclosed to the parents or legal guardian of the minor without the minor's consent. The minor may give legal consent to receipt of such treatment and rehabilitation. A minor shall be personally liable for all costs and expenses for alcohol and drug dependency treatment afforded to the minor at the minor's request under section 17a-682.

[(e)] (d) The commissioner may use or make available to authorized persons information from patients' records for purposes of conducting scientific research, management audits, financial audits or program evaluation, provided such information shall not be utilized in a manner that discloses a patient's name or other identifying information.

Sec. 14. Subsection (b) of section 19a-216a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

(b) The personal medical records of persons examined or treated in a communicable disease control clinic shall be held strictly confidential by the local director of health and his authorized agents and shall not be released or made public or be subject to discovery proceedings, except release may be made of personal medical information, excluding epidemiologic information under the following circumstances:

- (1) For statistical purposes in such form that no individual person can be identified;
- (2) With the informed consent of all persons identified in the records;

- (3) To health care providers in a medical emergency to the extent necessary to protect the health or life of the person who is the subject;
- (4) To health care providers and public health officials in the states or localities authorized to receive such information by other state statute or regulation to the extent necessary to protect the public health or safety by permitting the continuation of service or public health efforts directed to disease prevention and control;
- (5) To any agency authorized to receive reports of abuse or neglect of minors not more than twelve years of age pursuant to section 19a-216. If any information is required to be disclosed in a court proceeding involving abuse or neglect, the information shall be disclosed in camera and sealed by the court upon conclusion of the proceeding; or
- (6) By court order as necessary to enforce any provision of the general statutes or state regulations or local ordinances pertaining to public health and safety provided the order explicitly finds each of the following: (A) The information sought is material, relevant and reasonably calculated to be admissible evidence during the legal proceeding; (B) the probative value of the evidence outweighs the individual's and the public's interest in maintaining its confidentiality; (C) the merits of the litigation cannot be fairly resolved without the disclosure; and (D) the evidence is necessary to avoid substantial injustice to the party seeking it and the disclosure will result in no significant harm to the person examined or treated. Before making such findings, the court may examine the information in camera. [If the information meets the test of necessary evidence as listed in this subdivision, it shall be disclosed only in camera and shall be sealed by the court on conclusion of the proceeding.]

Sec. 15. Subsection (c) of section 19a-343a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

(c) If in the application, the state requests the issuance of a temporary ex parte order for the abatement of a public nuisance, the court [,] or, if the court is not in session, any judge of the Superior Court, may grant a temporary ex parte order to abate the public nuisance. The court or judge shall direct the state to give notice and service of such documents, including a copy of the ex parte order, in accordance with subsection (b) of this section. At such hearing, any defendant may show cause why the abatement order shall be modified or vacated. No such ex parte order may be granted unless it appears from the specific facts shown by affidavit and by complaint that there is probable cause to believe that a public nuisance exists and the temporary relief requested is necessary to protect the public health, welfare or safety. Such show cause hearing shall be scheduled

within five business days after service is effected by the state. [The affidavit may be ordered sealed by the court or judge upon a finding that the state's interest in nondisclosure substantially outweighs the defendant's right to disclosure.] A copy of the state's application and the temporary order to cease and desist shall be posted on any outside door to any building on the real property.

Sec. 16. Subsection (b) of section 36a-21 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

(b) The commissioner may, without waiving any privilege, disclose the records described in subsection (a) of this section for any appropriate supervisory, governmental, law enforcement or other public purpose. Any such disclosure shall be made under safeguards designed to prevent further dissemination of such records. [In any proceeding before a court, the court may issue a protective order in appropriate circumstances to protect the confidentiality of any such record and order that any such record on file with the court or filed in connection with the court proceeding be sealed and that the public be excluded from any portion of the proceeding at which any such record is disclosed.]

Sec. 17. Section 38a-956 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

The commissioner in his sole discretion may institute proceedings pursuant to [sections 38a-911 to 38a-913, inclusive] section 38a-912, at the request of the commissioner or other appropriate insurance official of the domiciliary state of any foreign or alien insurer having property located in this state.

Sec. 18. Section 51-164x of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

(a) Any person affected by a court order which prohibits any person from attending any session of court, except any session of court conducted pursuant to section 46b-11, 46b-49, 46b-122 or 54-76h, [or any other provision of the general statutes under which the court is authorized to close proceedings, whether at a pretrial or trial stage,] shall have the right to the review of such order by the filing of a petition for review with the Appellate Court [within seventy-two hours from] not later than three business days after the issuance of such court order.

(b) No order subject to review pursuant to subsection (a) of this section shall be effective until [seventy-two hours] the fourth business day after it has been issued, and the timely filing of any petition for review shall stay the order.

(c) Any person affected by a court order that seals or limits the disclosure of any files, affidavits, documents or other material on file with the court or filed in connection with a court proceeding, except (1) any order issued pursuant to section 46b-11 or 54-33c, [or any other provision of the general statutes under which the court is authorized to seal or limit the disclosure of files, affidavits, documents or materials, whether at a pretrial or trial stage,] and (2) any order issued pursuant to a court rule that seals or limits the disclosure of any affidavit in support of an arrest warrant, shall have the right to the review of such order by the filing of a petition for review with the Appellate Court [within seventy-two hours from] not later than three business days after the issuance of such court order.

(d) The Appellate Court shall provide an expedited hearing on such petitions filed pursuant to subsections (a) and (c) of this section in accordance with such rules as the judges of the Appellate Court may adopt, consistent with the rights of the petitioner and the parties to the case.

Sec. 19. Section 38a-913 of the general statutes is repealed. *(Effective July 1, 2007)*

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]



General Assembly

January Session, 2007

Raised Bill No. 126

LCO No. 902

00902_____JUD

Referred to Committee on Judiciary

Introduced by:

(JUD)

**AN ACT ADOPTING CERTAIN RECOMMENDATIONS OF THE JUDICIAL
BRANCH PUBLIC ACCESS TASK FORCE.**

[Proposed amendments offered by the Victim Advocate are highlighted in yellow except that proposed deletions are both highlighted and stricken.]

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (Effective July 1, 2007) (a) For the purposes of this section and sections 2 to 4, inclusive, of this act, "meeting" means a hearing or other proceeding of (1) the rules committee of the Superior Court, (2) the rules committee of the Appellate Court, (3) the annual meeting of the judges of the Superior Court, (4) the executive committee of the Superior Court, (5) a multi-member judicial entity established by rules of court, statute or administrative authority of the judges of the Superior Court, the Appellate Court or the Supreme Court, or (6) any subcommittee of the bodies specified in subdivisions (1) to (5), inclusive, of this subsection.

(b) "Meeting" does not include any meeting of a personnel search committee for executive level employment candidates; any chance meeting, or a social meeting neither planned nor intended for the purpose of discussing matters relating to official business; strategy or negotiations with respect to collective bargaining; an administrative or staff meeting of a single member committee or task force; and communications limited to notice of meeting of any public agency or the agendas thereof. A quorum of the members of a committee, entity or other body included in the definition of meeting under subsection (a) of this section who are present

at any event other than a meeting of the committee, entity or body of which they are a member shall not be deemed to be at a meeting of that committee, entity or body, provided no discussion of official business related to their committee, entity or body occurs.

(c) Except as otherwise provided by statute or rules of court, any meeting shall be open to the public. Notice of the time and place of such a meeting, as well as a copy of the agenda for such a meeting, shall be posted on the Internet web site of the Judicial Branch at least forty-eight hours in advance of the meeting.

(d) Notwithstanding the provisions of subsection (c) of this section, a meeting concerning the education and training of judges shall not be open to the public.

Sec. 2. (NEW) (*Effective July 1, 2007*) (a) Upon motion and a two-thirds vote of the members present and voting at a meeting, the members may go into closed session (1) for any purpose permitted by the Freedom of Information Act, as defined in section 1-200 of the general statutes, or (2) if a public session would have a deleterious impact on debate or the receipt of information and thereby substantially impede the ability of the committee or entity to perform its duties. Any motion to go into closed session shall specify the permissible purpose, in accordance with the Freedom of Information Act, as defined in section 1-200 of the general statutes, for the closed session, or the reason a public session would have a deleterious impact on debate or the receipt of information. The closed session may continue only so long as needed to serve those purposes.

(b) No vote shall be taken at a closed session except as permitted pursuant to the Freedom of Information Act, as defined in section 1-200 of the general statutes.

(c) Public sessions that may have a deleterious impact on debate or receipt of information, and for which a closed session would be permissible under subsection (a) of this section, include, but are not limited to, situations where: (1) The information sought to be disclosed would invade "personal privacy" as that term has been construed in subsection (b) of section 1-210 of the general statutes, (2) disclosure or discussion of information would be likely to give a party to pending or impending litigation a procedural or tactical advantage, or (3) the members determine that their need for information is obtainable only on a promise of confidentiality and outweighs the public's interest in attending the portion of the meeting at which the confidential information will be received or debated.

Sec. 3. (NEW) (*Effective July 1, 2007*) (a) Any meeting that is open to the public and scheduled in a court facility may be broadcast, televised, recorded or photographed.

(b) Members of the media attending a meeting with equipment to broadcast, televise, record or photograph that meeting may only use such equipment in connection with that meeting. A judicial marshal shall ensure that such equipment is being used in accordance with this subsection.

(c) A committee, entity or other body that schedules a meeting in a court facility shall notify the administrative judge for that judicial district of such meeting.

Sec. 4. (NEW) (*Effective July 1, 2007*) (a) For the purposes of this section, "administrative record" means information maintained by the Judicial Branch pertaining to the administration of the Judicial Branch with respect to the budget, personnel, facilities and physical operations of the Judicial Branch that is not associated with any particular case and includes (1) summaries, indices, minutes and official records of any meeting, and (2) information maintained or stored by the Judicial Branch, not otherwise exempted, in all paper and electronic platforms and formats.

(b) Except as otherwise provided by law, administrative records shall be open to the public.

(c) The Chief Court Administrator shall create and maintain a retention schedule for administrative records.

Sec. 5. (NEW) (*Effective July 1, 2007*) (a) All complaints received by the Office of the Chief Court Administrator regarding the conduct of a judge shall be reviewed by the Chief Court Administrator to determine if there is reason to believe that the allegations warrant further investigation by the Judicial Review Council. If the Chief Court Administrator determines that such further investigation is warranted, he or she shall refer such complaint to the Judicial Review Council for investigation and action in accordance with chapter 872a of the general statutes.

(b) If the Chief Court Administrator determines that the complaint is (1) without merit, (2) properly the subject of review through an existing adjudicatory procedure, or (3) otherwise not within the purview of the Office of the Chief Court Administrator, such complaint shall not be open to the public.

(c) If the Chief Court Administrator determines that the complaint warrants administrative action, but does not rise to the level that is appropriate for referral to the Judicial Review Council, the Chief Court Administrator may issue an admonishment in accordance with section 51-45a of the general statutes.

Sec. 6. (NEW) (*Effective July 1, 2007*) The Judicial Branch shall adopt a policy on public access to court records that is in accordance with the principle that all court records are presumptively open and that court records should be closed to the public only if there is a compelling reason to do so.

Sec. 7. (NEW) (*Effective July 1, 2007*) The Judicial Branch shall make the criminal docket of the Superior Court, including the docket number, name of the defendant, date of birth of the defendant and charge, available to the public on its Internet web site. If the Judicial Branch determines that there is a serious risk of identity theft in posting the date of birth of a defendant on the web site, it may post a redacted version of the date of birth such as only the month and year of birth.

Sec. 8. (NEW) (*Effective July 1, 2007*) The Judicial Branch shall make conviction information, as defined in section 54-142g of the general statutes, available to the public on its Internet web site. Such information shall include the docket number of the case, name of the defendant, date of arrest, charges and disposition including any fine, term of imprisonment and term of probation imposed by the court, but shall not include the address or motor vehicle operator license number of the defendant. Such information shall be searchable by name of defendant, date of birth of defendant and docket number. If the Judicial Branch determines that there is a serious risk of identity theft in posting the date of birth of a defendant on the web site, it may post a redacted version of the date of birth such as only the month and year of birth. Conviction information with respect to misdemeanors shall not be available to the public on the Judicial Branch or other public agency web site after five years from the date of the conviction.

Sec. 9. (NEW) (*Effective July 1, 2007*) Whenever an arrest is made in connection with the execution of a search warrant, any motion filed by a prosecuting authority seeking to extend an order of the court issued under section 54-33c of the general statutes sealing or limiting the disclosure of an affidavit upon which such search warrant was based shall be heard by the court on the record. Any such extension shall be until a date certain and shall not exceed ninety days.

Sec. 10. (NEW) (*Effective July 1, 2007*) Any police report used during a court hearing as the basis for a judicial determination of probable cause, whether or not probable cause has been found, shall be made part of the court file and be open to the public unless the court, on motion of any party or on its own motion, orders, for good cause shown, all or a portion of the report to be sealed. If such motion is granted, the moving party may make a recommendation within seven days as to the details of the sealing order. If no such recommendation is made, the report shall be made public. Any police report open to the public shall have any and all personal identifying information related to the crime victim redacted.

Sec. 11. Subsection (d) of section 54-56d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

(d) If the court finds that the request for an examination is justified and that, in accordance with procedures established by the judges of the Superior Court, there is probable cause to believe that the defendant has committed the crime for which the defendant is charged, the court shall order an examination of the defendant as to his or her competency. The court may (1) appoint one or more physicians specializing in psychiatry to examine the defendant, or (2) order the Commissioner of Mental Health and Addiction Services to conduct the examination either (A) by a clinical team consisting of a physician specializing in psychiatry, a clinical psychologist and one of the following: A clinical social worker licensed pursuant to chapter 383b or a psychiatric nurse clinical specialist holding a master's degree in nursing, or (B) by one or more physicians specializing in psychiatry, except that no employee of the Department of Mental Health and Addiction Services who has served as a member of a clinical team in the course of such employment for at least five years prior to October 1, 1995, shall be precluded from being appointed as a member of a clinical team. If the Commissioner of Mental Health and Addiction Services is ordered to conduct the examination, the commissioner shall select the members of the clinical team or the physician or physicians. If the examiners determine that the defendant is not competent, the examiners shall then determine whether there is a substantial probability that the defendant, if provided with a course of treatment, will regain competency within the maximum period of any placement order under this section. If the examiners determine that there is a substantial probability that the defendant, if provided with a course of treatment, will regain competency within the maximum period of any placement order under this section, the examiners shall then determine whether the defendant appears to be eligible for civil commitment, with monitoring by the Court Support Services Division, pursuant to subdivision (2) of subsection (h) of this section. The court may authorize a physician specializing in psychiatry, a clinical psychologist, a clinical social worker licensed pursuant to chapter 383b or a psychiatric nurse clinical specialist holding a master's degree in nursing selected by the defendant to observe the examination. Counsel for the defendant may observe the examination. The examination shall be completed within fifteen days from the date it was ordered and the examiners shall prepare and sign, without notarization, a written report and file such report with the court within twenty-one business days of the date of the order. On receipt of the written report, the clerk of the court shall cause copies to be delivered immediately to the state's attorney and to counsel for the defendant. The court shall, but only as to the public, order the written report sealed. The written report shall not be open to the public unless it is introduced at the hearing under subsection (e) of this section, a participant at such hearing

relies upon such report for his or her testimony, the questioning of witnesses or arguments to the court or the court makes findings based on such report.

Sec. 12. Subsection (a) of section 53a-39a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

(a) In all cases where a defendant has been convicted of a misdemeanor or a felony, other than a capital felony, a class A felony or a violation of section 21a-278, 21a-278a, 53a-55, 53a-56, 53a-56b, 53a-57, 53a-58 or 53a-70b or any other offense for which there is a mandatory minimum sentence which may not be suspended or reduced by the court, after trial or by a plea of guilty without trial, and a term of imprisonment is part of a stated plea agreement or the statutory penalty provides for a term of imprisonment, the court may, in its discretion, order an assessment for placement in an alternate incarceration program under contract with the Judicial Department. If the Court Support Services Division recommends placement in an alternate incarceration program, it shall also submit to the court a proposed alternate incarceration plan. Upon completion of the assessment, the court shall determine whether such defendant shall be ordered to participate in such program as an alternative to incarceration. If the court determines that the defendant shall participate in such program, the court shall suspend any sentence of imprisonment and shall make participation in the alternate incarceration program a condition of probation as provided in section 53a-30. An alternate incarceration assessment report prepared pursuant to this subsection shall be sealed upon filing with the court. If the court orders the defendant to participate in such alternate incarceration program, the report shall be unsealed and open to the public.

Sec. 13. (NEW) (*Effective July 1, 2007*) For the purposes of sections 14 to 16, inclusive, of this act, "media" means:

- (1) Any newspaper, magazine or other periodical, book publisher, news agency, wire service, radio or television station or network, cable or satellite or other transmission system or carrier, or channel or programming service for such station, network, system or carrier, or audio or audiovisual production company that disseminates information to the public, whether by print, broadcast, photographic, mechanical, electronic or any other means or medium; and
- (2) Any person who is or has been an employee, agent or independent contractor of any entity specified in subdivision (1) of this section and is or has been engaged in gathering, preparing or disseminating information to the public for such entity, or any other person supervising or assisting such person with gathering, preparing or disseminating information.

Sec. 14. (NEW) (*Effective July 1, 2007*) (a) All appellate proceedings in the Supreme Court and Appellate Court, except cases involving domestic violence or sexual assault crimes, are presumed to be open to the public and to electronic coverage by the media.

(b) Unless a timely motion is made to limit or preclude the broadcasting, televising, videotaping, audio recording or photographing of an appellate proceeding by a party or victim in a case, or by the court on its own motion, all such proceedings may be so broadcast, televised, taped, recorded or photographed.

(c) If a motion is made to limit or preclude the broadcasting, televising, videotaping, audio recording or photographing of an appellate procedure, the court shall determine, after providing an opportunity for the parties, any victim and the media to be heard on the issue, whether to limit or preclude electronic coverage of the proceeding. The court shall not limit public access to or electronic coverage of appellate proceedings unless there is a compelling reason to do so, there are no reasonable alternatives to such limitation and the limitation is no broader than necessary to protect the compelling interest at issue.

(d) If the Supreme Court or Appellate Court closes an appellate proceeding to the public or limits or precludes electronic coverage of an appellate proceeding by the media, the court shall make such decision in open court and state the reasons for such decision on the record.

Sec. 15. (NEW) (*Effective July 1, 2007*) (a) The Judicial Branch shall establish in a single judicial district from July 1, 2007, to July 1, 2009, a pilot program to allow the coverage of criminal proceedings, except in cases involving domestic violence or sexual assault crimes, by all forms of media including still cameras, video cameras and audio recordings.

(b) The Judicial Branch shall take appropriate steps to ensure that the judges, parties, crime victims, attorneys, media and public are aware that criminal proceedings may be subject to media coverage.

(c) Absent good cause shown, the media shall provide advance notice of their intent to use still cameras, video cameras or audio recording. The trial judge shall, to the extent possible, consult in advance with the media about anticipated coverage of the proceedings.

(d) Any party, attorney, witness or victim may object in advance of pretrial proceedings, trial or sentencing to the use of cameras, video cameras or audio recording if there is a substantial reason to believe that such media coverage

would undermine the rights of the defendant or the crime victim or would significantly compromise the safety or legitimate privacy concerns of a witness. The parties, as well as a witness or victim whose rights may be affected by media coverage of the proceedings, and the media, may participate in the hearing to determine whether to limit or preclude media coverage of the proceedings. The person seeking to limit or preclude media coverage of the proceedings shall have the burden of proof.

(e) Notwithstanding the absence of an objection to media coverage of a proceeding, the trial court may propose to limit or preclude such coverage when it reasonably believes that such coverage would undermine the rights of the defendant or the crime victim or would compromise legitimate concerns about security or about a person's safety or privacy. The court shall provide notice to the defendant, the state, any victim, the media and other persons whose interests may be affected by a decision on media coverage of the proceedings and permit such persons to participate in the hearing.

(f) The court shall, after a hearing, decide whether to limit or preclude the use of cameras, video cameras or audio recording after consideration of the rights asserted. The court shall not limit public access to or media coverage of the proceedings unless there is a compelling reason to do so, there are no reasonable alternatives to such limitation and the limitation is no broader than necessary to protect the compelling interest at issue. The court shall take into account special considerations that may arise such as the testimony of children, alleged victims of sexual offenses, confidential informants and undercover officers. Neither agreement of the parties nor a general statement by the court that it does not favor media coverage generally or in a particular category of cases shall be sufficient grounds for limiting or precluding media coverage of the proceedings.

(g) Objections raised during the course of a criminal proceeding to the photographing, video taping or audio recording of specific aspects of the proceeding, individuals or exhibits shall be heard and decided by the court in accordance with the same standards used to determine whether to limit or preclude access based on objections raised before the start of the proceeding.

(h) There shall be no videotaping, audio recording or photographing of jurors. There shall be no videotaping or audio recording of trial proceedings when the jury has been excused from the courtroom unless the court determines that such coverage does not create a risk to the rights of the defendant or to a fair trial.

(i) Cameras, video cameras and audio recording equipment shall be used only in the courtrooms, be placed in the courtroom in the locations designated by the Judicial Branch to ensure maximum coverage of the proceedings and minimize

any disruption, and be set up and taken down only when the court proceedings are in recess.

(j) Nothing in this section shall be construed to eliminate the existing authority of the trial court to take reasonable measures to preserve order in the courtroom and to ensure a fair trial.

Sec. 16. (NEW) (*Effective July 1, 2007*) (a) Media coverage of civil proceedings in the Superior Court shall be permitted subject to the provisions of this section and except where a courtroom is closed in accordance with statute or rule of court.

(b) The Judicial Branch shall take appropriate steps to ensure that the judges, parties, crime victims, attorneys, media and public are aware that most civil proceedings are subject to media coverage.

(c) Absent good cause shown, the media shall provide three-day advance notice of their intent to use still cameras, video cameras or audio recording. The trial judge shall, to the extent possible, consult in advance with the media about anticipated coverage of the proceedings.

(d) Any party, attorney, witness or victim may object in advance of pretrial proceedings or trials to the use of cameras, video cameras or audio recording if there is a substantial reason to believe that such media coverage would undermine the rights of a party to a civil proceeding or significantly compromise the safety or legitimate privacy concerns of a witness or victim. The parties, as well as a witness or victim whose rights may be affected by media coverage of the proceedings, and the media, may participate in the hearing to determine whether to limit or preclude media coverage of the proceedings. The person seeking to limit or preclude media coverage of the proceedings shall have the burden of proof.

(e) Notwithstanding the absence of an objection to media coverage of a proceeding, the trial court may propose to limit or preclude such coverage when it reasonably believes that such coverage would undermine the rights of a party or compromise legitimate concerns about security or about a person's safety or privacy. The court shall provide notice to the parties, the victim, the media and other persons whose interests may be affected by a decision on media coverage of the proceedings and permit such persons to participate in the hearing.

(f) The court shall, after a hearing, decide whether to limit or preclude the use of cameras, video cameras or audio recording after consideration of the rights asserted. The court shall not limit public access to or media coverage of the proceedings unless there is a compelling reason to do so, there are no reasonable

alternatives to such limitation and the limitation is no broader than necessary to protect the compelling interest at issue. The court shall take into account special considerations that may arise such as when children or alleged victims of sexual offenses testify or when there may be additional legitimate privacy concerns as in civil commitment proceedings. Neither agreement of the parties nor a general statement by the court that it does not favor media coverage generally or in a particular category of cases shall be sufficient grounds for limiting or precluding media coverage of the proceedings.

(g) Objections raised during the course of a civil proceeding to the photographing, video taping or audio recording of specific aspects of the proceeding, individuals or exhibits shall be heard and decided by the court in accordance with the same standards used to determine whether to limit or preclude access based on objections raised before the start of a proceeding.

(h) There shall be no videotaping, audio recording or photographing of jurors. There shall be no videotaping or audio recording of trial proceedings when the jury has been excused from the courtroom unless the court determines that such coverage does not create a risk to the rights of the defendant or to a fair trial.

(i) Cameras, video cameras and audio recording equipment shall be used only in the courtrooms, be placed in the courtroom in the locations designated by the Judicial Branch to ensure maximum coverage of the proceedings and minimize any disruption, and be set up and taken down only when the court proceedings are in recess.

(j) Nothing in this section shall be construed to eliminate the existing authority of the trial court to take reasonable measures to preserve order in the courtroom and to ensure a fair trial.

Sec. 17. (NEW) (*Effective July 1, 2007*) Nothing in sections 1 to 10, inclusive, of this act, sections 13 to 16, inclusive, of this act, subsection (d) of section 54-56d and subsection (a) of section 53a-39a of the general statutes, as amended by this act, shall be construed to impede or diminish the authority and obligation of a judge to conduct fair and unbiased trials and proceedings. A judge has the responsibility to ensure the safety of persons while such persons are in the courtroom and, to the extent possible, after such persons leave the courtroom.