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108TH CONGRESS
1ST SESSION

H. R. 2155

To allow media coverage of court proceedings.

IN THE HOUSE OF REPRESENTATIVES

MAY 20, 2003

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

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A BILL

To allow media coverage of court proceedings.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress makes the following findings:

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

States Supreme Court articulated in Craig v. Harney (1947), ''A trial is a public event. What transpires in the court room is public property.''.

(2) The right of the people of the United States to a free press, with the ability to report on all aspects of the conduct of the business of government, as protected by the first amendment to the Constitution, cannot be meaningfully exercised without the ability of the news media to gather facts and information freely for dissemination to the public.

(3) The right of the people of the United States to petition the Government to redress grievances, particularly as it relates to the manner in which the Government exercises its legislative, executive, and judicial powers, as protected by the first amendment to the Constitution, cannot be meaningfully exercised without the availability to the public of information about how the affairs of government are being conducted. As the Supreme Court noted in Richmond Newspapers, Inc. v. Commonwealth of Virginia (1980), ''People in an open society do not demand infallibility from their institutions, but it is difficult for them to accept what they are prohibited from observing.''

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

(5) Providing statutory authority for the courts of the United States to exercise their discretion in permitting televised coverage of courtroom proceedings would enhance significantly the access of the people to the Federal judiciary.

(6) Inasmuch as the first amendment to the Constitution prevents Congress from abridging the ability of the people to exercise their inherent rights to freedom of speech, to freedom of the press, and to petition the Government for a redress of grievances, it is good public policy for the Congress affirmatively to facilitate the ability of the people to exercise those rights.

(7) The granting of such authority would assist in the implementation of the constitutional guarantee of public trials in criminal cases, as provided

by the sixth amendment to the Constitution. As the Supreme Court stated in In re Oliver (1948), ''Whatever other benefits the guarantee to an accused that his trial be conducted in public may confer upon our society, the guarantee has always been recognized as a safeguard against any attempt to employ our courts as instruments of persecution. The knowledge that every criminal trial is subject to contemporaneous review in the forum of public opinion is an effective restraint on possible abuse of judicial power.''.

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

(a) AUTHORITY OF APPELLATE COURTS.—Notwithstanding any other provision of law, the presiding judge of an appellate court of the United States may, in his or her discretion, permit the photographing, electronic recording, broadcasting, or televising to the public of court proceedings over which that judge presides.

(b) AUTHORITY OF DISTRICT COURTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, any presiding judge of a district court of the United States may, in his or her discretion, permit the photographing, electronic recording,

broadcasting, or televising to the public of court proceedings over which that judge presides.

(2) OBSCURING OF WITNESSES.—(A) Upon the request of any witness in a trial proceeding other than a party, the court shall order the face and voice of the witness to be disguised or otherwise obscured in such manner as to render the witness unrecognizable to the broadcast audience of the trial proceeding.

(B) The presiding judge in a trial proceeding shall inform each witness who is not a party that the witness has the right to request that his or her image and voice be obscured during the witness' testimony.

(c) ADVISORY GUIDELINES.—The Judicial Conference of the United States is authorized to promulgate advisory guidelines to which a presiding judge, in his or her discretion, may refer in making decisions with respect to the management and administration of photographing, recording, broadcasting, or televising described in subsections (a) and (b).

SEC. 3. DEFINITIONS.

In this Act:

(1) PRESIDING JUDGE.—The term ''presiding judge'' means the judge presiding over the court

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

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

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

(2) APPELLATE COURT OF THE UNITED STATES.—The term ''appellate court of the United States'' means any United States circuit court of appeals and the Supreme Court of the United States.

SEC. 4. SUNSET.

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

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