

Bill to Allow Cameras in the U.S. Supreme Court

Digital Media and Data Privacy Law Blog

on 04.30.2010

Posted in Access to Courtrooms

A bill that would generally allow electronic media coverage of U.S. Supreme Court proceedings passed the Senate Judiciary Committee on April 29.

The bill, S. 446, provides:

The Supreme Court shall permit television coverage of all open sessions of the Court unless the Court decides, by a vote of the majority of justices, that allowing such coverage in a particular case would constitute a violation of the due process rights of 1 or more of the parties before the Court.

The bill as currently drafted would presumptively allow electronic media coverage of Supreme Court proceedings unless five justices decide that permitting the coverage would violate one or the other party's Fifth Amendment due process rights. The Supreme Court has never allowed electronic media coverage of its proceedings, so enactment of the bill (if it happens) would be a major step forward for cameras-in-the-courtroom advocates.

Although many state courts do allow cameras in the courtroom, the federal judiciary has been more reluctant to do so. Under current federal law, cameras are generally prohibited in federal district court proceedings. In fact, some federal district courts, by local rule, forbid the public and courtroom participants (lawyers and parties) from bringing smart phones with camera capabilities inside the federal courthouse. And, although the U.S. Courts of Appeals are allowed to permit electronic media coverage of their proceedings, they generally do not. For an excellent summary of the history of cameras in federal courts as of 2006, see the CRS Report to Congress on this topic.

S. 446 was introduced by Sen. Arlen Specter and has seven additional co-sponsors. With Thursday's vote, the bill was reported favorably out of the Senate Judiciary Committee and now moves to the full Senate floor.

Companion legislation, H.R. 429, was introduced in the House in January 2009 and was referred to the House Judiciary Committee, where it is still pending.

Bill to Allow Cameras in the U.S. Supreme Court Clears Senate Judiciary Committee

In related action on April 29, the Senate Judiciary Committee took the somewhat unusual step of adopting a Senate Resolution, S. Res. 339, voicing support for the cameras in the Supreme Court bill. The resolution states:

It is the sense of the Senate that the Supreme Court should permit live television coverage of all open sessions of the Court unless the Court decides, by a vote of the majority of justices, that allowing such coverage in a particular case would constitute a violation of the due process rights of 1 or more of the parties before the Court.

We'll continue to follow Congressional action on cameras in the U.S. Supreme Court and report on important developments.