

Institute for
Constitutional Advocacy and Protection

GEORGETOWN LAW

VIA EMAIL

Senator William C. Smith, Jr.
Chair, Judicial Proceedings Committee
Miller Senate Office Building, 2 East Wing
11 Bladen St.
Annapolis, MD 21401
will.smith@senate.state.md.us

Delegate Luke H. Clippinger
Chair, Judiciary Committee
Taylor House Office Building, Room 101
6 Bladen St.
Annapolis, MD 21401
luke.clippinger@house.state.md.us

Senator Joanne Claybon Benson
James Senate Office Building, Room 214
11 Bladen St.
Annapolis, MD 21401
Joanne.benson@senate.state.md.us

Senator James Carew Rosapepe
James Senate Office Building, Room 101
11 Bladen St.
Annapolis, MD 21401
jim.rosapepe@senate.state.md.us

Delegate David Moon
Taylor House Office Building, Room 101
6 Bladen St.
Annapolis, MD 21401
david.moon@house.state.md.us

March 21, 2022

Dear Senators Smith, Rosapepe, and Benson and Delegates Clippinger and Moon:

As advocates for transparency in government, we write in support of Senate Bill 469/House Bill 467, common-sense legislation that would preserve virtual access to Maryland courts.

The Institute for Constitutional Advocacy and Protection (ICAP) uses strategic legal advocacy to defend constitutional rights and values while working to restore confidence in the integrity of our governmental institutions. As part of that mission, ICAP works to enhance the public's understanding of how America's justice system works, and ensure access to justice, particularly for those in low-income communities who are disproportionately affected by barriers to entry. We represent people seeking to challenge policies that hinder their ability to document and report on the activities of prosecutors, police, and other criminal-justice officials. One goal of this work is to equip journalists, researchers, advocates, and community organizations with the tools they need to contribute meaningfully to public discourse on criminal justice issues. Another is to ensure that all Americans have full and open access to their justice system, as required by the

Institute for
Constitutional Advocacy and Protection

GEORGETOWN LAW

U.S. Constitution. We view SB 469/HB 467 as an important step toward advancing these goals in Maryland.

ICAP has engaged firsthand with the problems wrought by the COVID-19 pandemic on public access to all manner of government proceedings. Throughout 2020 and 2021, for example, we wrote letters to Pennsylvania’s Fifth Judicial District, successfully urging it to provide remote access to criminal and landlord-tenant proceedings; we favorably resolved a subsequent First Amendment lawsuit against a local judge who refused to follow that District’s guidance to allow remote access. And last year, ICAP successfully represented disability-rights advocates and advocacy organizations in a challenge—under the First Amendment and other federal laws—against an Idaho state legislature policy that infringed upon their fundamental rights to participate in the legislative process by denying basic protections for their health and safety. Our lawsuit resulted in the parties entering a consent decree that ensured that persons with disabilities could testify before legislative committees and participate in activities at the State Capitol without risk of exposure to or contracting COVID-19. Although the consent decree was time-limited to Idaho’s 2021 legislative session, we were pleased that the Idaho state legislature has continued to allow virtual testimony in its 2022 session, a positive reflection on the success and importance of this simple measure to provide government access and transparency to Idaho’s citizens.

Along these lines, minutes from last fall’s meeting of the Maryland Judicial Council—a meeting which was itself livestreamed, commendably, pursuant to the state’s Open Meetings Act—speak to the success of the Maryland Judiciary’s “concerted effort to facilitate remote hearings” during the pandemic.¹ According to the Judicial Council, remote access to court proceedings allowed for over 153,000 meetings, involving over 81,000 participants per month. While these are successes to be celebrated, they also underscore the extent to which, in the 21st Century, virtual access to judicial proceedings has become intrinsic to access to justice itself.

We applaud the Maryland Judiciary for the affirmative steps it has taken during the COVID-19 pandemic to open its doors to all Marylanders, and call on the legislature to ensure continued access by taking up and passing SB469/HB467.

Sincerely,

Alex Aronson
Managing Director, ICAP
aa2595@georgetown.edu

¹ Maryland Judicial Council, Minutes (Sept. 22, 2021), <https://www.courts.state.md.us/sites/default/files/import/judicialcouncil/pdfs/minutes/minutes20210922.pdf>