

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

SENATE BILL 166

5 By: Senator A. Clark
6

For An Act To Be Entitled

8 AN ACT TO ALLOW THE PUBLIC TO ATTEND HEARINGS
9 CONCERNING CHILD SUPPORT, PATERNITY, AND MATTERS
10 HEARD UNDER THE ARKANSAS JUVENILE CODE OF 1989; TO
11 ALLOW THE PUBLIC TO OBTAIN CERTAIN COURT FILES AND
12 RECORDS; AND FOR OTHER PURPOSES.
13

Subtitle

14
15 TO ALLOW THE PUBLIC TO ATTEND HEARINGS
16 CONCERNING CHILD SUPPORT, PATERNITY, AND
17 MATTERS HEARD UNDER THE ARKANSAS JUVENILE
18 CODE OF 1989; AND TO ALLOW THE PUBLIC TO
19 OBTAIN CERTAIN COURT FILES AND RECORDS.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 SECTION 1. Arkansas Code Title 9, Chapter 8, is amended to add an
26 additional subchapter to read as follows:

Subchapter 4

- Admission of General Public and Media to Hearings

9-8-401. Hearings - Admission of general public and media.

30
31 (a) As used in this section, "child" means an individual who is under
32 eighteen (18) years of age.

33 (b) The general public shall be admitted to the following:

34 (1) A child support hearing; or

35 (2) A hearing to determine paternity.

36 (c) A court may close a hearing or exclude a person from a hearing



1 upon:

2 (1) Its own motion;

3 (2) The motion of a party to the court proceeding;

4 (3) The motion of a child who is the subject of the court
5 proceeding; or

6 (4) The motion of an attorney or a guardian ad litem of a child
7 who is the subject of the court proceeding.

8 (d) The following individuals may be admitted by the court to a closed
9 hearing:

10 (1) A party to the court proceeding;

11 (2) Counsel of a party to the court proceeding;

12 (3) A witness who will testify during the court proceeding;

13 (4) A person accompanying a party to the court proceeding for
14 the purpose of providing assistance to the party; or

15 (5) Any other person that the court finds has an interest in the
16 court proceeding or in the work of the court.

17 (e) A court may exclude a person from a hearing open to the public if
18 the court finds on the record and enters an order finding that the presence
19 of the person at the hearing would:

20 (1) Be detrimental to the best interests of the child who is a
21 party to the proceeding;

22 (2) Impair the fact-finding process; or

23 (3) Be otherwise contrary to the interest of justice.

24 (f)(1) A person may submit a written request to the court for the
25 installation and use of electronic recording, transmission, videotaping, or
26 motion picture or still photography during a hearing.

27 (2) A written request made under subdivision (f)(1) of this
28 section shall be submitted to the court at least two (2) days before the date
29 of the hearing.

30 (3) The court may grant a written request made under subdivision
31 (f)(1) of this section in whole or in part.

32 (4)(A) The following shall be considered by the court in
33 determining whether to grant a request made under subdivision (f)(1) of this
34 section:

35 (i) The nature of the hearing;

36 (ii) The consent or objection of a party to the

1 hearing;

2 (iii) The consent or objection of a witness whose
3 testimony will be presented during the hearing;

4 (iv) Whether the proposed coverage will promote
5 increased public access to the courts and openness of judicial proceedings;

6 (v) The impact on the integrity and dignity of the
7 court;

8 (vi) The impact on the administration of the court;

9 (vii) The impact on due process and the fact finding
10 function of the hearing;

11 (viii) Whether the proposed coverage will contribute
12 to the enhancement of or detract from the goals of justice;

13 (ix) Any special circumstances of a party, victim,
14 witness, or other participant including without limitation the need to
15 protect a child and the safety of the participants; and

16 (x) Any other factors that the court determines to
17 be important under the circumstances of the case.

18 (B) During the court's consideration of the factors listed
19 in subdivision (f)(4)(A) of this section, the court may hear from a party,
20 witness, other interested person, or person or entity requesting coverage of
21 the hearing.

22 (C) This subsection does not apply to the electronic or
23 photographic means for presenting evidence or preserving the record.

24 (g) A court may order the media not to release identifying information
25 concerning a child or a family member, foster parent, guardian or other
26 caretaker of the child involved in the hearing.

27
28 9-8-402. Public inspection of court files and records.

29 (a) Except as otherwise provided by this chapter, all files and
30 records of the court in a hearing held under § 9-10-101 et seq., § 9-14-101
31 et seq., § 9-14-201 et seq., or § 9-14-501 et seq. shall be open to
32 inspection upon the order of the court.

33 (b) The general public shall be allowed to inspect files and records
34 of the court for a hearing open to the public under § 9-8-401.

35 (c) A court may permit an authorized representative of a recognized
36 organization compiling statistics for proper purposes to inspect and make

1 abstracts from the files and records of the court in accordance with rules or
2 other guidelines specified by the court.

3 (d)(1) A court may permit an authorized representative of the
4 Department of Human Services, the Division of Arkansas State Police, or
5 Administrative Office of the Courts to inspect, extract, or make copies of
6 data from the files and records of the court for the purpose of obtaining
7 statistics on children in accordance with rules or guidelines specified by
8 the court.

9 (2) Data obtained by the department, the division, or the office
10 shall not be redisclosed unless redisclosure is otherwise permitted by law.

11
12 SECTION 2. Arkansas Code Title 9, Chapter 27, Subchapter 1, is amended
13 to add an additional section to read as follows:

14 9-27-101. Hearings – Admission of general public and media.

15 (a) As used in this section:

16 (1) "Dependency proceeding" means a court proceeding concerning
17 a dependency-neglect petition; and

18 (2) "Juvenile" means an individual who is:

19 (A) Under eighteen (18) years of age, whether married or
20 single; or

21 (B) Both:

22 (i) Adjudicated by the juvenile division of circuit
23 court as delinquent, a juvenile member of a family in need of services, or
24 dependent or dependent-neglected before he or she attains eighteen (18) years
25 of age; and

26 (ii) Under the jurisdiction of the juvenile division
27 of circuit court.

28 (b) Except as otherwise provided by this section, the general public
29 shall be excluded from a juvenile court hearing.

30 (c) The general public shall be admitted to the following:

31 (1) An adjudication hearing involving an allegation that a
32 juvenile committed a Class A felony or Class B felony;

33 (2)(A) An adjudication hearing involving an allegation of
34 delinquency against a juvenile who has previously been adjudicated
35 delinquent.

36 (B) A delinquency hearing concerning an allegation of

1 sexual assault or in which a party intends to introduce substantial evidence
2 on matters of dependency-neglect shall be closed to the general public;

3 (3) At the discretion of the court, a disposition hearing
4 involving a proceeding under this chapter; and

5 (4) Except as otherwise provided by subsection (d) of this
6 section, a dependency proceeding.

7 (d) A court may close a hearing concerning a dependency-neglect
8 proceeding if the court finds that:

9 (1) The dependency proceeding involves an allegation of conduct
10 which, if committed by an adult, would constitute a sexual offense or sex-
11 related offense under § 5-14-101 et seq., the Arkansas Protection of Children
12 Against Exploitation Act of 1979, § 5-27-301 et seq., § 5-27-401 et seq., and
13 § 5-27-601 et seq.; and

14 (2)(A) It is in the best interest of the juvenile.

15 (B) In determining whether closing a hearing is in the
16 best interest of the child, the court shall consider the following factors:

17 (i) The age of the juvenile who is the subject of
18 the dependency-neglect petition or who has been adjudicated dependent-
19 neglected;

20 (ii) The nature of the allegations;

21 (iii) The effect that an open hearing will have on
22 the ability of the court to reunite and rehabilitate the family unit;

23 (iv) Whether closing the hearing is necessary to
24 protect the privacy of the juvenile, a foster parent or other caretaker of
25 the juvenile, or a victim of domestic violence; and

26 (v) Any other relevant information.

27 (e) A court may close a hearing or exclude a person from a hearing
28 upon:

29 (1) Its own motion;

30 (2) The motion of a party to the court proceeding;

31 (3) The motion of a juvenile who is the subject of the court
32 proceeding; or

33 (4) The motion of an attorney or a guardian ad litem of a
34 juvenile who is the subject of the court proceeding.

35 (f) The following individuals may be admitted by the court to a closed
36 hearing:

1 (1) A party to the court proceeding;

2 (2) Counsel of a party to the court proceeding;

3 (3) A witness who will testify during the court proceeding;

4 (4) A person accompanying a party to the court proceeding for
5 the purpose of providing assistance to the party;

6 (5) Any other person that the court finds has an interest in the
7 court proceeding or in the work of the court; or

8 (6) If the hearing concerns alleged conduct in a dependency-
9 neglect proceeding that may give rise to the criminal or delinquent
10 prosecution of the juvenile, a prosecuting attorney and counsel for the
11 juvenile.

12 (g) A court may exclude a person from a hearing open to the public if
13 the court finds on the record and enters an order finding that the presence
14 of the person at the hearing would:

15 (1) Be detrimental to the best interests of the juvenile who is
16 a party to the proceeding;

17 (2) Impair the fact-finding process; or

18 (3) Be otherwise contrary to the interest of justice.

19 (h) A court may temporarily exclude a juvenile from a hearing
20 concerning the termination of parental rights if the hearing does not involve
21 an allegation of delinquency or a family in need of services.

22 (i)(1) A person may submit a written request to the court for the
23 installation and use of electronic recording, transmission, videotaping, or
24 motion picture or still photography during a hearing.

25 (2) A written request made under subdivision (i)(1) of this
26 section shall be submitted to the court at least two (2) days before the date
27 of the hearing.

28 (3) The court may grant a written request made under subdivision
29 (i)(1) of this section in whole or in part.

30 (4)(A) The following shall be considered by the court in
31 determining whether to grant a request made under subdivision (i)(1) of this
32 section:

33 (i) The nature of the hearing;

34 (ii) The consent or objection of all parties to the
35 hearing;

36 (iii) The consent or objection of a witness whose

1 testimony will be presented during the hearing;

2 (iv) Whether the proposed coverage will promote
3 increased public access to the courts and openness of judicial proceedings;

4 (v) The impact on the integrity and dignity of the
5 court;

6 (vi) The impact on the administration of the court;

7 (vii) The impact on due process and the fact finding
8 function of the hearing;

9 (viii) Whether the proposed coverage would
10 contribute to the enhancement of or detract from the goals of justice;

11 (ix) Any special circumstances of a party, victim,
12 witness, or other participant including without limitation the need to
13 protect a child and the safety of the participants; and

14 (x) Any other factors that the court determines to
15 be important under the circumstances of the case.

16 (B) During the court's consideration of the factors listed
17 in subdivision (i)(4)(A) of this section, the court may hear from a party,
18 witness, other interested person, or person or entity requesting coverage of
19 the hearing.

20 (C) This subsection does not apply to the electronic or
21 photographic means for presenting evidence or preserving the record.

22 (j) A court may order the media not to release identifying information
23 concerning a juvenile or a family member, foster parent, guardian or other
24 caretaker of the juvenile involved in the hearing.

25
26 SECTION 3. Arkansas Code Title 9, Chapter 27, Subchapter 1, is amended
27 to add an additional section to read as follows:

28 9-27-103. Public inspection of court files and records.

29 (a) Except as otherwise provided by this section, all files and
30 records of the court in a hearing held under this chapter shall be open to
31 inspection upon the order of the court.

32 (b) The general public shall be allowed to inspect files and records
33 of the court for a hearing open to the public under § 9-27-101.

34 (c) A court may permit an authorized representative of a recognized
35 organization compiling statistics for proper purposes to inspect and make
36 abstracts from the files and records of the court in accordance with rules or

1 other guidelines specified by the court.

2 (d)(1) A court may permit an authorized representative of the
3 Department of Human Services, the Division of Arkansas State Police, or
4 Administrative Office of the Courts to inspect, extract, or make copies of
5 data from the files and records of the court for the purpose of obtaining
6 statistics on juveniles in accordance with rules or guidelines specified by
7 the court.

8 (2) Data obtained by the department, the division, or the office
9 shall not be redisclosed unless redisclosure is otherwise permitted under
10 this chapter.

11 (e) Except as otherwise provided by this chapter, a complaint,
12 petition, order of adjudication, or order of disposition in a delinquency
13 case shall be disclosed upon the request of a prosecuting attorney or the
14 alleged offender for use preliminary to or in conjunction with a subsequent
15 juvenile or criminal proceeding.

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