

House Bill 1482

By: Representatives Burmeister of the 119th, Oliver of the 83rd, Hatfield of the 177th, Coan of the 101st, Benfield of the 85th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to
2 juvenile proceedings, so as to admit the general public to hearings in juvenile court with
3 certain exceptions; to authorize juvenile court to close a hearing under exceptional
4 circumstances upon its own motion or by a motion of a party; to prohibit the media from
5 publicizing the name, identity, or likeness of any child involved in a juvenile court
6 proceeding; to prohibit the inspection of files and records by the general public of a
7 proceeding in juvenile court without an order of the court; to permit certain persons and the
8 state Department of Family and Children Services to inspect files and records without an
9 order of the court; to provide that certain records may be sealed; to provide for related
10 matters; to provide for an effective date and applicability; to repeal conflicting laws; and for
11 other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 style="text-align:center">**SECTION 1.**

14 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to juvenile
15 proceedings, is amended by striking Code Section 15-11-78, relating to exclusion of the
16 public from hearing and exceptions, and inserting in its place the following:

17 "15-11-78.

18 ~~(a) Except as otherwise provided by subsection (b) of this Code section, the general public~~
19 ~~shall be excluded from hearings involving delinquency, deprivation, or unruliness. Only~~
20 ~~the parties, their counsel, witnesses, persons accompanying a party for his or her assistance,~~
21 ~~and any other persons as the court finds have a proper interest in the proceeding or in the~~
22 ~~work of the court may be admitted by the court. The court may temporarily exclude the~~
23 ~~child from the hearing except while allegations of his or her delinquency or unruly conduct~~
24 ~~are being heard.~~

25 ~~(b) The general public shall be admitted to:~~

1 ~~(1) An adjudicatory hearing involving an allegation of a designated felony pursuant to~~
 2 ~~Code Section 15-11-63;~~

3 ~~(2) An adjudicatory hearing involving an allegation of delinquency brought in the~~
 4 ~~interest of any child who has previously been adjudicated delinquent; provided, however,~~
 5 ~~the court shall close any delinquency hearing on an allegation of sexual assault or any~~
 6 ~~delinquency hearing at which any party expects to introduce substantial evidence related~~
 7 ~~to matters of deprivation;~~

8 ~~(3) Any child support hearing;~~

9 ~~(4) Any hearing in a legitimation action filed pursuant to Code Section 19-7-22; or~~

10 ~~(5) At the court's discretion, any dispositional hearing involving any proceeding under~~
 11 ~~this article.~~

12 (a) The general public shall be admitted to hearings in any proceeding in juvenile court,
 13 except as otherwise provided in this Code section.

14 (b)(1) The general public shall be excluded from hearings in proceedings involving:

15 (A) Termination of parental rights; or

16 (B) Adoption proceedings pursuant to Chapter 8 of Title 19.

17 (2) Only the parties, their counsel, witnesses, persons accompanying a party for his or
 18 her assistance, and any other persons as the court finds have a proper interest in the
 19 proceeding or in the work of the court may be admitted by the court to hearings from
 20 which the public is excluded. The court may temporarily exclude the child from the
 21 hearing except while allegations of his or her delinquency or unruly conduct are being
 22 heard.

23 (c)(1) Except as provided in subsection (b) of this Code section, the court shall only
 24 close a hearing in a proceeding in exceptional circumstances and shall make a finding on
 25 the record as to the reason or reasons for closing all or part of a hearing in any
 26 proceeding.

27 (2) The court may close the hearing in any proceeding in juvenile court upon making a
 28 finding upon the record:

29 (A) That the proceeding involves an allegation of an act which, if done by an adult,
 30 would constitute a sexual offense under Chapter 6 of Title 16; or

31 (B) That it is in the best interest of the child. In making such a determination, the
 32 court shall consider such factors as:

33 (i) The age of the child;

34 (ii) The nature of the allegations; and

35 (iii) The effect of publicity, if any, on family reunification.

36 (d) The court may refuse to admit a person to a hearing in any proceeding upon making
 37 a finding upon the record that the person's presence at the hearing would:

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

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

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

4 (e) The court may close a hearing or exclude a person from a hearing in any proceeding
5 on its own motion or by motion of a party to the proceeding.

6 (f) Each juvenile court shall request the media not to release identifying information
7 concerning any child or family members involved in hearings open to the public.

8 (g) Any request for installation and use of electronic recording, transmission, videotaping,
9 or motion picture or still photography of any judicial proceeding shall be made to the
10 juvenile court at least two days in advance of the hearing. The request shall be evaluated
11 by the court pursuant to the standards set forth in Code Section 15-1-10.1."

12 SECTION 2.

13 Said chapter is further amended by striking subsections (a) and (b) of Code Section 15-11-79,
14 relating to inspection of court files and records, and inserting in their place new subsections
15 (a) and (b) to read as follows:

16 "(a) Except as provided in ~~subsection~~ subsections (b) and (c) of this Code section, all files
17 and records of the court in a proceeding under this article are open to inspection only upon
18 order of the court.

19 ~~(b) Subject to the requirements of subsection (a) of Code Section 15-11-56, subsection (b)~~
20 ~~of Code Section 15-11-65, and Code Section 15-11-79.2, the general public shall be~~
21 ~~allowed to inspect court files and records for cases arising under Code Section 15-11-73~~
22 ~~or any complaint, petition, or order from any case that was open to the public pursuant to~~
23 ~~subsection (b) of Code Section 15-11-78. The general public shall be allowed to inspect~~
24 ~~court files and records for proceedings involving a legitimation petition under the~~
25 ~~jurisdiction of the juvenile court pursuant to paragraph (1) or (2) of subsection (e) of Code~~
26 ~~Section 15-11-28.~~

27 (b) Files and records of a proceeding, unless sealed pursuant to Code Section 15-11-79.2,
28 may be inspected without an order of the court by the following;

29 (1) The child who is the subject of the proceeding;

30 (2) A guardian ad litem who has been appointed by the court in the proceeding;

31 (3) A person who:

32 (A) Is the parent, legal guardian, or legal custodian of the child who is the subject
33 matter of the proceeding; and

34 (B) Has not been alleged to have committed any offense pursuant to Title 16 against
35 the child who is the subject of the proceeding; and

36 (4) The state Department of Family and Children's Services."

SECTION 3.

Said chapter is further amended by striking subsection (e) of Code Section 15-11-79.2, relating to sealing of records, and inserting in its place a new subsection (e) to read as follows:

~~"(e) Except as otherwise provided by the court, no order sealing files and records under this Code section may be issued regarding any proceeding in which the general public may not be excluded from the hearing under subsection (a) of Code Section 15-11-78~~ The court may seal any record containing information identifying a victim of an act which, if done by an adult, would constitute a sexual offense under Chapter 6 of Title 16."

SECTION 4.

Said chapter is further amended by striking subsection (b) of Code Section 15-11-82, relating to inspection of court files and records, and inserting in its place a new subsection (b) to read as follows:

~~"(b) Unless a charge of delinquency is transferred for criminal prosecution under Code Section 15-11-30.2; or the interest of national security requires, or the case is one in which the general public may not be excluded from the hearings under subsection (a) or (b) of Code Section 15-11-78 or the court otherwise orders in the interest of the child, the records and files shall not be open to public inspection nor shall their contents be disclosed to the public,~~ except as provided in Code Section 15-11-79."

SECTION 5.

This Act shall become effective July 1, 2006, and shall not apply to any juvenile court proceeding filed before that date. Any such proceeding filed before July 1, 2006, shall be governed by the statute in effect at the time the juvenile court proceeding was filed.

SECTION 6.

All laws and parts of laws in conflict with this Act are repealed.