

House Bill 616

By: Representative Manning of the 32<sup>nd</sup>

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 inspection of  
5 files and records by the general public of a proceeding in juvenile court without an order of  
6 the court; to permit certain persons, the Division of Family and Children Services, the  
7 Department of Juvenile Justice, and certain service providers to inspect files and records  
8 without an order of the court; to provide that certain records may be sealed; to provide for  
9 related matters; to provide for an effective date and applicability; to repeal conflicting laws;  
10 and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

13 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to juvenile  
14 proceedings, is amended by revising Code Section 15-11-78, relating to exclusion of the  
15 public from hearing and exceptions, as follows:

16 "15-11-78.

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

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

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

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

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

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

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

36 (a) The general public shall be admitted to any truancy, status, delinquency, or deprivation  
 37 proceeding in juvenile court, except as otherwise provided in this Code section.

38 (b)(1) The general public shall be excluded from hearings in proceedings involving  
 39 adoption pursuant to Chapter 8 of Title 19.

40 (2) Only the parties and children who are parties to the proceedings, and their counsel,  
 41 witnesses, persons accompanying a child who is a party to the proceeding or a party for  
 42 his or her assistance, and any other persons as the court finds have a proper interest in the  
 43 proceeding or in the work of the court may be admitted by the court to hearings from  
 44 which the public is excluded.

45 (3) The court may temporarily exclude any child from a termination of parental rights  
 46 hearing except while allegations of his or her delinquency or unruly conduct are being  
 47 heard.

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

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

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

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

58 (i) The age of the child;

59 (ii) The nature of the allegations; and

60 (iii) The effect of publicity, if any, on family reunification, child well-being, and  
 61 permanency.

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

- 64 (1) Be detrimental to the best interest of a child who is a party to the proceeding;  
 65 (2) Impair the fact-finding process; or  
 66 (3) Be otherwise contrary to the interest of justice.  
 67 (e) The court may close a hearing or exclude a person from a hearing in any proceeding  
 68 on its own motion or by motion of a party to the proceeding.  
 69 (f) Each juvenile court shall request the media not to release identifying information  
 70 concerning any child or family members involved in hearings open to the public.  
 71 (g) Any request for installation and use of electronic recording, transmission, videotaping,  
 72 or motion picture or still photography of any judicial proceeding shall be made to the  
 73 juvenile court at least two days in advance of the hearing. The request shall be evaluated  
 74 by the court pursuant to the standards set forth in Code Section 15-1-10.1."

75 **SECTION 2.**

76 Said chapter is further amended by revising subsections (a) and (b) of Code Section  
 77 15-11-79, relating to inspection of court files and records, as follows:

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

81 ~~(b) Subject to the requirements of subsection (a) of Code Section 15-11-56, subsection (b)~~  
 82 ~~of Code Section 15-11-65, and Code Section 15-11-79.2, the general public shall be~~  
 83 ~~allowed to inspect court files and records for cases arising under Code Section 15-11-73~~  
 84 ~~or any complaint, petition, or order from any case that was open to the public pursuant to~~  
 85 ~~subsection (b) of Code Section 15-11-78. The general public shall be allowed to inspect~~  
 86 ~~court files and records for proceedings involving a legitimation petition under the~~  
 87 ~~jurisdiction of the juvenile court pursuant to paragraph (1) or (2) of subsection (e) of Code~~  
 88 ~~Section 15-11-28.~~

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

- 91 (1) The child who is a party to the proceeding;  
 92 (2) A guardian ad litem who has been appointed by the court in the proceeding, including  
 93 court appointed special advocates;  
 94 (3) A child's attorneys;  
 95 (4) A person who:  
 96 (A) Is the parent, legal guardian, or legal custodian of the child who is a party to the  
 97 proceeding; and  
 98 (B) Has not been alleged to have committed any offense pursuant to Title 16 against  
 99 the child who is a party to the proceeding;

100 (5) The Division of Family and Children Services;  
 101 (6) The Department of Juvenile Justice; and  
 102 (7) Service providers who are providing services to the child through contracts with the  
 103 juvenile court, the Division of Family and Children Services, or the Department of  
 104 Juvenile Justice."

105 **SECTION 3.**

106 Said chapter is further amended by revising subsection (e) of Code Section 15-11-79.2,  
 107 relating to sealing of records, as follows:

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

113 **SECTION 4.**

114 Said chapter is further amended by revising subsection (b) of Code Section 15-11-82, relating  
 115 to inspection of court files and records, as follows:

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

122 **SECTION 5.**

123 This Act shall become effective July 1, 2009, and shall not apply to any juvenile court  
 124 proceeding filed before that date. Any such proceeding filed before July 1, 2009, shall be  
 125 governed by the statute in effect at the time the juvenile court proceeding was filed.

126 **SECTION 6.**

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