

The Senate Special Judiciary Committee offered the following substitute to SB 207:

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 a juvenile court to close a hearing under exceptional
4 circumstances upon its own motion or by a motion of a party; to require a written order to
5 make such hearings; to prohibit the media from publicizing the name, identity, or likeness
6 of any child involved in a juvenile court proceeding; to prohibit the inspection of files and
7 records by the general public of a proceeding in juvenile court without an order of the court;
8 to permit certain persons and the Division of Family and Children Services, the Department
9 of Juvenile Justice, and certain service providers to inspect files and records without an order
10 of the court; to provide that certain records may be sealed; to provide for related matters; to
11 provide for an effective date and applicability; to repeal conflicting laws; and for other
12 purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 SECTION 1.

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

18 "15-11-78.

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

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

- 27 ~~(1) An adjudicatory hearing involving an allegation of a designated felony pursuant to~~
 28 ~~Code Section 15-11-63;~~
- 29 ~~(2) An adjudicatory hearing involving an allegation of delinquency brought in the~~
 30 ~~interest of any child who has previously been adjudicated delinquent; provided, however,~~
 31 ~~the court shall close any delinquency hearing on an allegation of sexual assault or any~~
 32 ~~delinquency hearing at which any party expects to introduce substantial evidence related~~
 33 ~~to matters of deprivation;~~
- 34 ~~(3) Any child support hearing;~~
- 35 ~~(4) Any hearing in a legitimation action filed pursuant to Code Section 19-7-22; or~~
- 36 ~~(5) At the court's discretion, any dispositional hearing involving any proceeding under~~
 37 ~~this article.~~
- 38 (a) The general public shall be admitted to hearings in any proceeding in juvenile court,
 39 except as otherwise provided in this Code section.
- 40 (b)(1) The general public shall be excluded from hearings in proceedings involving
 41 adoption pursuant to Chapter 8 of Title 19 and hearings involving delinquency pursuant
 42 to Chapter 11 of Title 15.
- 43 (2) Only the parties, their counsel, witnesses, persons accompanying a party for his or
 44 her assistance, and any other persons as the court finds have a proper interest in the
 45 proceeding or in the work of the court may be admitted by the court to hearings from
 46 which the public is excluded.
- 47 (3) The court may temporarily exclude any child from a termination of parental rights
 48 hearing except while allegations of his or her delinquency or unruly conduct are being
 49 heard.
- 50 (c)(1) Except as provided in subsection (b) of this Code section, the court shall close a
 51 hearing in a proceeding only in exceptional circumstances and shall make a finding on
 52 the record and issue a signed order as to the reason or reasons for closing all or part of a
 53 hearing in any proceeding.
- 54 (2) The court may close the hearing in any proceeding in juvenile court upon making a
 55 finding upon the record and issuing a signed order:
- 56 (A) That the proceeding involves an allegation of an act which, if done by an adult,
 57 would constitute a sexual offense under Chapter 6 of Title 16; or
- 58 (B) That it is in the best interest of the child. In making such a determination, the court
 59 shall consider such factors as:
- 60 (i) The age of the child;
- 61 (ii) The nature of the allegations; and
- 62 (iii) The effect of publicity, if any, on family reunification.

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

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

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

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

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

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

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

77 **SECTION 2.**

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

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

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

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

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

94 (2) A guardian ad litem who has been appointed by the court in the proceeding, including
 95 a court appointed special advocate;

96 (3) The child's attorney;

97 (4) A person who:

- 98 (A) Is the parent, legal guardian, or legal custodian of the child who is the subject of
99 the proceeding; and
- 100 (B) Has not been alleged to have committed any offense pursuant to Title 16 against
101 the child who is the subject of the proceeding;
- 102 (5) The Division of Family and Children Services;
103 (6) The Department of Juvenile Justice; and
104 (7) Service providers who are providing services to the child through contracts with the
105 juvenile court, the Division of Family and Children Services, or the Department of
106 Juvenile Justice."

107 **SECTION 3.**

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

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

115 **SECTION 4.**

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

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

124 **SECTION 5.**

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

128 **SECTION 6.**

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