

HOUSE SUBSTITUTE TO SENATE BILL 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 certain proceedings in juvenile
 3 court with certain exceptions; to define certain terms; to authorize a juvenile court to close
 4 a hearing under certain circumstances; to require a written order to close certain hearings; to
 5 provide that the judge may order the media not to publicize the identifying information of
 6 any child involved in open juvenile court proceedings; to provide that certain records may
 7 be sealed; to provide for sharing of confidential information; to provide for related matters;
 8 to provide for an effective date and applicability; to repeal conflicting laws; and for other
 9 purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

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

15 "15-11-78.

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

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; or

36 (6) Any hearing in a deprivation proceeding, except as otherwise provided in subsection
 37 (c) of this Code section.

38 (c) The court may close the hearing in a deprivation proceeding only upon making a
 39 finding upon the record and issuing a signed order as to the reason or reasons for closing
 40 all or part of a hearing in such proceeding and stating that:

41 (A) The proceeding involves an allegation of an act which, if done by an adult, would
 42 constitute a sexual offense under Chapter 6 of Title 16; or

43 (B) It is in the best interest of the child. In making such a determination, the court shall
 44 consider such factors as:

45 (i) The age of the child;

46 (ii) The nature of the allegations;

47 (iii) The effect that an open court proceeding will have on the court's ability to reunite
 48 and rehabilitate the family unit; and

49 (iv) Whether the closure is necessary to protect the privacy of a child, of a foster
 50 parent or other caretaker of a child, or of a victim of domestic violence.

51 (d) The court may close a hearing or exclude a person from a hearing in any proceeding
 52 on its own motion, by motion of a party to the proceeding, or by motion of a child who is
 53 the subject of the proceeding or the child's attorney or guardian ad litem.

54 (e) Only the parties, their counsel, witnesses, persons accompanying a party for his or her
 55 assistance, and any other persons as the court finds have a proper interest in the proceeding
 56 or in the work of the court may be admitted by the court to hearings from which the public
 57 is excluded; provided, however, that when the conduct alleged in the deprivation
 58 proceeding could give rise to a criminal or delinquent prosecution, attorneys for the
 59 prosecution and the defense shall be admitted.

60 (f) The court may refuse to admit a person to a hearing in any proceeding upon making a
 61 finding upon the record and issuing a signed order that the person's presence at the hearing
 62 would:

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

- 64 (2) Impair the fact-finding process; or
 65 (3) Be otherwise contrary to the interest of justice.
 66 (g) The court may temporarily exclude any child from a termination of parental rights
 67 hearing except while allegations of his or her delinquency or unruly conduct are being
 68 heard.
 69 (h) Any request for installation and use of electronic recording, transmission, videotaping,
 70 or motion picture or still photography of any judicial proceeding shall be made to the court
 71 at least two days in advance of the hearing. The request shall be evaluated by the court
 72 pursuant to the standards set forth in Code Section 15-1-10.1.
 73 (i) The judge may order the media not to release identifying information concerning any
 74 child or family members or foster parent or other caretaker of a child involved in hearings
 75 open to the public.
 76 (j) The general public shall be excluded from proceedings in juvenile court unless such
 77 hearing has been specified as one in which the general public shall be admitted to pursuant
 78 to this Code section."

79 **SECTION 2.**

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

82 "(b) Subject to the requirements of subsection (a) of Code Section 15-11-56, subsection
 83 (b) of Code Section 15-11-65, and Code Section 15-11-79.2, the general public shall be
 84 allowed to inspect court files and records for cases arising under Code Section 15-11-73
 85 or any complaint, petition, or order from any case that was open to the public pursuant to
 86 paragraphs (1) through (5) of subsection (b) of Code Section 15-11-78. The general public
 87 shall be allowed to inspect court files and records for proceedings involving a legitimation
 88 petition under the jurisdiction of the juvenile court pursuant to paragraph (1) or (2) of
 89 subsection (e) of Code Section 15-11-28."

90 **SECTION 3.**

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

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

98 **SECTION 4.**

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

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

107 **SECTION 5.**

108 Said chapter is further amended by adding a new Code section to read as follows:

109 "15-11-84.

110 (a) As used in this Code section, the term 'governmental entity' shall mean the court,
111 superior court, the Department of Juvenile Justice, the Division of Mental Health,
112 Developmental Disabilities, and Addictive Diseases within the Department of Human
113 Resources, the Division of Family and Children Services within the Department of Human
114 Resources, county departments of family and children services, law enforcement unit, as
115 such term is defined in Code Section 35-8-2, or public school, as such term is defined in
116 Code Section 16-11-35.

117 (b) Governmental entities, state, county, consolidate governments, or municipal
118 government departments, boards, or agencies shall exchange with each other all
119 information not held as confidential pursuant to federal law and relating to a child which
120 may aid a governmental entity in the assessment, treatment, intervention, or rehabilitation
121 of a child, notwithstanding Code Section 15-1-15, 15-11-9.1, subsection (d) of Code
122 Section 15-11-10, Code Section 15-11-66.1, 15-11-75, 15-11-81, 15-11-82, 15-11-174,
123 20-2-751.2, 20-14-40, 24-9-40.1, 24-9-41, 24-9-42, 26-4-5, 26-4-80, 26-5-17, 31-5-5,
124 31-33-6, 37-1-53, 37-2-9.1, 42-5-36, 42-8-40, 42-8-106, 49-5-40, 49-5-41, 49-5-41.1,
125 49-5-44, 49-5-45, 49-5-183, 49-5-184, 49-5-185, or 49-5-186, in order to serve the best
126 interest of the child. Such information shall not be utilized to assist in the prosecution of
127 the child in juvenile court or superior court or utilized to the detriment of the child.

128 (c) Information released pursuant to this Code section shall not change or rescind the
129 confidential nature of such information and such information shall not be subject to public
130 disclosure or inspection unless otherwise provided by law."

131 **SECTION 6.**

132 This Act shall become on effective January 1, 2010, and shall not apply to any juvenile court
133 proceeding filed before that date. Any such proceeding filed before January 1, 2010, shall
134 be governed by the statute in effect at the time the juvenile court proceeding was filed.

135 **SECTION 7.**

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