

CHAPTER 76

(SB 40)

AN ACT relating to open juvenile proceedings.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 21A IS CREATED TO READ AS FOLLOWS:

- (1) *The General Assembly respectfully requests that the Supreme Court of Kentucky institute a pilot project to study the feasibility and desirability of the opening or limited opening of court proceedings, except for proceedings related to sexual abuse, to the public which are related to:*
- (a) *Dependency, neglect, and abuse proceedings under KRS Chapter 620; and*
 - (b) *Termination of parental rights proceedings under KRS Chapter 625.*
- (2) (a) *The pilot project may be established in a minimum of three (3) diverse judicial districts or judicial circuits or a division or divisions thereof chosen by the Chief Justice.*
- (b) *A pilot project authorized by this subsection shall not be established in a judicial district or judicial circuit or a division thereof when objected to by the applicable judge or county attorney.*
- (3) *The pilot project shall:*
- (a) *Require participating courts to be presumptively open;*
 - (b) *Last for four (4) years, unless extended or limited by the General Assembly; and*
 - (c) *Be monitored and evaluated by the Administrative Office of the Courts to determine:*
 - 1. *Whether there are adverse effects resulting from the opening of certain proceedings or release of records;*
 - 2. *Whether the pilot project demonstrates a benefit to the litigants;*
 - 3. *Whether the pilot project demonstrates a benefit to the public;*
 - 4. *Whether the pilot project supports a determination that such proceedings should be presumptively open;*
 - 5. *Whether the pilot project supports a determination that such proceedings should be closed;*
 - 6. *How open proceedings under the pilot project impact the child;*
 - 7. *The parameters and limits of the program;*
 - 8. *Suggestions for the operation and improvement of the program;*
 - 9. *Rules changes which may be needed if the program is to be made permanent and expanded to all courts; and*
 - 10. *Recommendations for statutory changes which may be needed if the program is to be made permanent and expanded to all courts.*
- (4) *The Administrative Office of the Courts:*
- (a) *Shall provide an annual report to the Legislative Research Commission, the Interim Joint Committee on Health and Welfare, and the Interim Joint Committee on Judiciary by September 1 of each year the program is in operation with statistics, findings, and recommendations; and*
 - (b) *May make periodic progress reports and statistical reports and provide suggestions to the Interim Joint Committee on Health and Welfare and to the Interim Joint Committee on Judiciary when determined necessary by the Chief Justice.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 21A IS CREATED TO READ AS FOLLOWS:

- (1) *A court chosen for the pilot project authorized by Section 1 of this Act shall, subject to written authorization by the Chief Justice:*

- (a) *Open all or some of its proceedings to the public relating to cases identified in subsection (1) of Section 1 of this Act, subject to subsection (2) of this section;*
 - (b) *Set parameters for members of the public related to attendance at open proceedings and the information obtained during the proceedings; and*
 - (c) *Establish a procedure to require each member of the public attending a proceeding not to disclose the name or personal identifying information regarding any person who is a party to the proceeding, or person testifying at the proceeding.*
- (2) (a) *A court chosen for the pilot project authorized by Section 1 of this Act may close the hearing or any part thereof upon motion of a party or upon its own motion if the court determines that closure is in the best interest of the child, the public, or for other good cause shown. The party seeking closure shall have the burden of proof.*
- (b) *In considering whether closure of a hearing is in the best interest of the child or the public, the court shall give priority to the best interest of the child. The court shall also consider all relevant circumstances of the case, including but not limited to:*
- 1. *The nature of the allegations;*
 - 2. *The age and maturity level of the child;*
 - 3. *The benefit to the child, family, and public of maintaining confidentiality;*
 - 4. *The benefit to the public of an open hearing;*
 - 5. *The effect of confidentiality on the fact-finding process;*
 - 6. *The wishes of the parties, victims, and the parents of any children involved in the case; and*
 - 7. *Whether reasonable alternatives to closure are available.*
- (c) *The court shall make written findings of fact and conclusions of law to support an order of closure, and any order of closure shall be no broader than is necessary to protect the interests asserted by the party seeking closure.*
- (3) *Unless otherwise authorized by law, a court chosen for the pilot project authorized by Section 1 of this Act shall not:*
- (a) *Release any record discussed at any open proceeding authorized by Section 1 of this Act, prior to, at, or after the proceeding which is made confidential pursuant to law;*
 - (b) *Permit audio, visual, or other recording of the proceedings by any person who is attending the proceeding, a party to the proceeding, or testifying at the proceeding;*
 - (c) *Permit any audio, visual, or other recording of the proceedings for official court purposes to be made a public record, copied, or released to the public; or*
 - (d) *Permit any member of the public attending the proceeding, who is not a party to the proceeding, or who is not testifying at the proceeding, to disclose the name or personal identifying information of any person who is a party to a proceeding or testifying at a proceeding, outside of the courtroom.*
- (4) *A person may take written notes during a hearing, as provided in Section 1 of this Act, and remove them from the courtroom following the hearing provided that no name or personal identifying information of any minor who is a party to the proceeding or testifying at the proceeding shall be taken from the courtroom. The provisions of this subsection are not intended to apply to, and shall not limit the use or publication of, any information obtained by means other than attendance at a proceeding authorized by this section.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 610 IS CREATED TO READ AS FOLLOWS:

- (1) *Any statute, administrative procedure, or court rule limiting or prohibiting public attendance at court proceedings conducted under KRS Chapter 620 or 625 shall not apply in a court which is participating in a pilot project authorized by Section 1 of this Act to the extent that the Chief Justice, and the presiding judge for a case specified in Section 1 of this Act, have authorized public attendance at the proceeding.*
- (2) *The provisions of this section shall not permit attendance by the public at any court handling a case under KRS Chapter 620 or 625 which is not participating in the pilot project authorized by Section 1 of this Act, except as otherwise authorized by law.*

- (3) *Unless authorized by law, the provisions of this section shall not permit attendance by the public in any court participating in the pilot project authorized by Section 1 of this Act which is not authorized by the Supreme Court to admit the public for any case or class of cases.*
- (4) *The provisions of this section shall not permit attendance by the public at any case before a court participating in the pilot project authorized by Section 1 of this Act when the judge presiding over the case determines that the case shall be closed.*

Signed by Governor April 9, 2016.