

By: Birdwell

S.B. No. 1728

A BILL TO BE ENTITLED

AN ACT

relating to public access to juvenile court proceedings.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 54.08, Family Code, is amended to read as follows:

Sec. 54.08. PUBLIC ACCESS TO COURT PROCEEDINGS [~~HEARINGS~~].

(a) Except as provided by this section, the court shall open proceedings [~~hearings~~] under this title to the public unless the court, on the motion of any party to a proceeding and based on the evidence presented [~~for good cause shown~~], determines that:

(1) there exists a reasonable and substantial basis for believing that public access to the proceeding could harm the child, endanger the child's right to a fair trial, or endanger a victim of the conduct of the child;

(2) the potential for harm to the child or a victim outweighs the benefits of public access to the proceeding; and

(3) the harm can be remedied only by excluding the public from the proceeding [~~the public should be excluded~~].

(b) A motion by a party to exclude the public from a proceeding must be made in writing and served on all parties not later than the third day before the date the proceeding is scheduled to occur.

(c) On receipt of a motion to exclude the public from a proceeding, the court must conduct an evidentiary hearing in open

1 court on the motion to determine whether exclusion of the public
2 from the proceeding is warranted under Subsection (a). General
3 considerations, including concern for rehabilitation of the child,
4 are insufficient to warrant exclusion of the public from a
5 proceeding.

6 (d) On conclusion of the evidentiary hearing under
7 Subsection (c), the court shall order the proceeding to be open to
8 the public unless the court issues written findings of fact and
9 conclusions of law stating that the evidence of potential harm to
10 the child or to a victim presented under Subsection (a) clearly
11 outweighs the public interest in a proceeding that is open to the
12 public.

13 (e) Any party or member of the public has standing to appeal
14 an order of the court excluding the public from a proceeding.

15 (f) Any party or member of the public objecting to an order
16 excluding the public from a proceeding is entitled to an immediate
17 appeal of that order. The notice of appeal must be filed not later
18 than the seventh day after the date the order is entered or the date
19 the public is excluded from a proceeding. The filing of a notice of
20 appeal shall stay further proceedings pending the disposition of
21 the interlocutory appeal.

22 (g) The court of appeals shall expeditiously review an
23 appeal under this section.

24 (h) The court may not prohibit a person who is a victim of
25 the conduct of a child, or the person's family, from personally
26 attending a proceeding [~~hearing~~] under this title relating to the
27 conduct by the child unless the victim or member of the victim's

1 family is to testify in the proceeding [~~hearing~~] or any subsequent
2 proceeding [~~hearing~~] relating to the conduct and the court
3 determines that the victim's or family member's testimony would be
4 materially affected if the victim or member of the victim's family
5 hears other testimony at trial.

6 (i) [~~(c)~~] If a child is under the age of 14 at the time of
7 the proceeding: [~~hearing~~]

8 (1) Subsections (a), (b), (c), (d), (e), (f), and (g)
9 do not apply to a proceeding involving the child; and

10 (2) the court shall close the proceeding [~~hearing~~] to
11 the public unless the court finds that the interests of the child or
12 the interests of the public would be better served by opening the
13 proceeding [~~hearing~~] to the public.

14 (j) [~~(d)~~] In this section, "family" has the meaning
15 assigned by Section 71.003.

16 SECTION 2. This Act takes effect September 1, 2017.