By: Goldman

H.B. No. 1871

A BILL TO BE ENTITLED

1   AN ACT

2 relating to public access to juvenile court proceedings.

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

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

5 follows:

6   Sec. 54.08. PUBLIC ACCESS TO COURT <u>PROCEEDINGS</u> [HEARINGS].

7 (a) Except as provided by this section, the court shall open

8 <u>proceedings</u> [hearings] under this title to the public unless the

9 court, <u>on the motion of any party to a proceeding and based on the</u>

10 <u>evidence presented</u> [for good cause shown], determines that<u>:</u>

11   <u>(1)   there exists a reasonable and substantial basis</u>

12 <u>for believing that public access to the proceeding could harm the</u>

13 <u>child, endanger the child's right to a fair trial, or endanger a</u>

14 <u>victim of the conduct of the child;</u>

15   <u>(2)   the potential for harm to the child or a victim</u>

16 <u>outweighs the benefits of public access to the proceeding; and</u>

17   <u>(3)   the harm can be remedied only by excluding the</u>

18 <u>public from the proceeding</u> [the public should be excluded].

19   (b) <u>A motion by a party to exclude the public from a</u>

20 <u>proceeding must be made in writing and served on all parties not</u>

21 <u>later than the third day before the date the proceeding is scheduled</u>

22 <u>to occur.</u>

23   (c) <u>On receipt of a motion to exclude the public from a</u>

24 <u>proceeding, the court must conduct an evidentiary hearing in open</u>

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, 2019.