



House of Representatives

General Assembly

File No. 776

January Session, 2005

Substitute House Bill No. 6812

House of Representatives, May 19, 2005

The Committee on Appropriations reported through REP. MERRILL of the 54th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING PUBLIC ACCESS TO PROCEEDINGS IN CERTAIN JUVENILE MATTERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 46b-122 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2005*):

3 (a) All matters which are juvenile matters, as provided in section
4 46b-121, shall be kept separate and apart from all other business of the
5 Superior Court as far as is practicable, except matters transferred
6 under the provisions of section 46b-127, which matters shall be
7 transferred to the regular criminal docket of the Superior Court. Any
8 judge hearing a [juvenile] delinquency matter or a matter concerning a
9 family with service needs may, during such hearing, exclude from the
10 room in which such hearing is held any person whose presence is, in
11 the court's opinion, not necessary, except that in delinquency
12 proceedings any victim of the delinquent act, the parents or guardian
13 of such victim and any victim advocate appointed pursuant to section

14 54-221 shall not be excluded unless the judge specifically orders
15 otherwise.

16 (b) Members of the public may attend proceedings in which a child
17 is alleged to be uncared for, neglected, abused or dependent or is the
18 subject of a petition for termination of parental rights, except that the
19 court may exclude any person from such proceedings if the court
20 determines, on a case-by-case basis, that such exclusion is warranted.
21 In making such determination, the court may consider, among other
22 factors, whether: (1) The person is causing or is likely to cause a
23 disruption in the proceedings; (2) the presence of the person is objected
24 to for a compelling reason by one of the parties, including the attorney
25 for the child or a guardian ad litem; (3) the privacy interests of
26 individuals before the court and the need to protect the child and other
27 parties from harm requires that the person, or some or all observers, be
28 excluded from the courtroom; (4) the presence of the person will
29 inhibit testimony or the disclosure or discussion of information
30 material to the proceedings; and (5) less restrictive alternatives to
31 exclusion are unavailable or inappropriate to the circumstances of the
32 particular case. The attendance of a member of the public at any such
33 proceeding shall be subject to the availability of suitable space at the
34 facility where such proceeding takes place. The court shall make its
35 findings and determination on the record.

36 (c) If a member of the public is in attendance at any proceeding
37 pursuant to subsection (b) of this section, the court shall consider, on a
38 case-by-case basis, whether there is a compelling reason to issue an
39 order prohibiting the member of the public from using or
40 disseminating the name, address, photograph or other personally
41 identifiable information about a child, parent or guardian disclosed
42 during the proceedings. In determining whether a compelling reason
43 to issue such order exists, the court shall consider, among other factors:
44 (1) The nature of the allegations; (2) the age and maturity of the child;
45 (3) the emotional well-being of the child; (4) the potential harm to the
46 child if such information is disclosed; and (5) the public interest in
47 disclosure.

48 (d) Nothing in this section shall be construed to affect the
49 confidentiality of records of cases of juvenile matters as set forth in
50 section 46b-124.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2005	46b-122

APP *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Judicial Dept.	GF - None	None	None

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill permits members of the public to observe child protection hearings provided certain conditions are met, including the condition that suitable space is available at the facility where such proceeding takes place. Any workload increase resulting from the bill could be accommodated within budgeted resources.

OLR Bill Analysis

sHB 6812

AN ACT CONCERNING PUBLIC ACCESS TO PROCEEDINGS IN CERTAIN JUVENILE MATTERS**SUMMARY:**

This bill limits the circumstances under which juvenile court judges hearing child abuse, termination of parental rights, and dependency matters can exclude members of the public, including the press, from their courtrooms. It also requires these judges to have a compelling reason for barring members of the public from disseminating or using personally identifying information about children, parents, or guardians disclosed at hearings they attended.

The bill specifies that the attendance of a member of the public is subject to the availability of suitable space at the facility where the proceeding takes place.

It retains the existing law's prohibition against disclosing juvenile court records, directly or indirectly, to any third party, except as provided by law or court order.

EFFECTIVE DATE: October 1, 2005

EXCLUDING PEOPLE FROM HEARINGS

The bill allows judges hearing these matters to exclude people from their courtrooms on a case-by-case basis if warranted. In making this determination, the factors they may consider include whether:

1. the person is disrupting, or likely to disrupt, the proceedings;
2. one of the parties, including the child's attorney or guardian ad litem, asserts a compelling reason for exclusion;
3. the privacy interests of people appearing at the hearing and the need to protect the child and other parties from harm requires exclusion of the person, or some or all observers;

4. the person’s presence will inhibit testimony or the disclosure or discussion of material information; and
5. less restrictive alternatives are available or appropriate to the particular case.

The court must make its findings and determination on the record.

Current law permits courts to exclude observers it determines are unnecessary to the proceeding, but does not include factors they may consider or require that their decisions be stated on the record. The bill leaves the current procedure intact for cases involving delinquent children and families with service needs.

PROHIBITING DISCLOSURE OF IDENTIFYING INFORMATION

The bill creates a standard for issuing court orders prohibiting court observers from using or disclosing information disclosed during the proceedings. This includes the name, address, photograph, or other personally identifiable information about a child, parent, or guardian. The judge must find a compelling reason to order nondisclosure and must consider:

1. the nature of the allegations;
2. the child’s age, maturity, and emotional well-being;
3. potential harm to the child if the information is disclosed; and
4. the public’s interest in disclosure.

BACKGROUND

Legislative History

On May 3, the House referred the bill (File 581) to the Appropriations Committee, which reported out a substitute bill on May 10. The substitute specifies that the attendance of a member of the public is subject to the availability of suitable space at the facility where the proceeding takes place.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Report
Yea 38 Nay 2

Appropriations Committee

Joint Favorable Substitute
Yea 43 Nay 0