

Center for Children's Advocacy

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TESTIMONY OF THE CENTER FOR CHILDREN'S ADVOCACY IN SUPPORT OF RAISED BILL NO. 7039: AN ACT CONCERNING PUBLIC ACCESS TO PROCEEDINGS IN CERTAIN JUVENILE MATTERS

February 15, 2007

This testimony is submitted on behalf of the Center for Children's Advocacy, a non-profit organization based at the University of Connecticut School of Law. The Center provides holistic legal services for poor children in Connecticut's communities through individual representation and systemic advocacy. Through our Child Abuse Project, the Center represents individual children in child abuse and neglect proceedings.

We strongly endorse Raised Bill No.7039, which will provide guidance on when the public may observe child protection proceedings and ensure that the interests of those children are protected. We reach this decision only after much research and evaluation.

Every day, the attorneys in my office meet children who have suffered significant trauma: physical abuse; sexual abuse; neglect; removal from their homes of origin; and all too often an unstable existence in foster care. We see their faces and we know their names. We see how the various people and systems that are supposed to be there to protect them have failed them.

But to the public, the children are both nameless and faceless; their stories are never heard. Our effort to protect them and their families from stigma and to ensure their privacy unfortunately silences these children who are the victims of abuse. Permitting the public to attend abuse and neglect proceedings is a way of giving voice to the children who are most vulnerable in Connecticut. Open courts can also hold the system, and all of the people in it, accountable.

While our current law does not exclude the public, it offers little guidance on the circumstances under which people may attend neglect proceedings. In our experience, the result is that all people except service providers are excluded as a matter of course. Even relatives, who are supportive of the children, are not allowed in the court. They have no way of knowing what is being done to ensure the safety of the children, what services are being offered to the family, or whether the parents are making progress. The media doesn't even try to observe protection proceedings because they know they will be excluded.

Instead, media coverage is skewed, with the public learning only of extreme cases in their initial stages. The public hears the horrific story of the child who was severely



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abused and who was taken away from his parents. They breathe a sigh of relief that the child is not with his or her parents and assume the child is better off. They don't see the lengthy delays for trial dates or the physical conditions of the courthouses. They don't hear about the lasting effects of the trauma children experience. They don't hear about youth living in shelters for months on end because there aren't enough foster homes. They don't hear about the children who are moved from foster home to foster home, or the effect such moves have on them. They don't hear about the children who desperately need mental health treatment but can't get it because there is a 6-month waiting list or the children who should have been referred for treatment, but never were, and instead deteriorate so significantly that they need long-term residential treatment.

The stories of these children must be heard. Silence is not helping them. We believe that it is harmful, because the public has no means of holding the child welfare system accountable. We must find a way to tell the stories of these children while protecting their privacy and the privacy of their families. Raised Bill No. 6812 does exactly that.

Raised Bill No. 6812 provides guidance to the Court for allowing members of the public to observe proceedings, while ensuring that both the interests of justice are served and that the interests of children are protected. The specific criteria set out in the bill will help judges make reasoned decisions about when to allow the public into the courtroom.

The Court would be required to consider:

- Whether the person is causing or likely to cause disruption;
- Any compelling objections of the parties;
- The privacy interests of the individuals before the court and the need to protect the child and other parties from harm;
- Whether the presence of the person will inhibit testimony; and
- Whether less restrictive alternatives are available.

The bill, modeled after the current New York rule, maintains the Court's ability to exclude members of the public from child abuse and neglect proceedings and sets out specific criteria for the Court to consider before doing so. The bill also gives the court authority to prohibit the dissemination of any personally identifiable information disclosed during court proceedings.

If Raised Bill No. 6812 is enacted, family members, foster parents, and service providers could attend hearings of families and children about which they are concerned. The media could cover child welfare issues of concern to the public. Individual children and families would retain a significant level of privacy. And, if the court determined it was warranted, the public could be excluded.

Some people fear that children may be harmed by open proceedings. But Connecticut would not be the first state to open its child protection courts. Indeed, such proceedings are open in 19 states: Florida, Iowa, New York, Maryland, Michigan,

Minnesota, Oregon and Washington, to name a few. In addition, in New Mexico and Illinois, the general public is excluded but the courts are open to the media. And four other states currently have pilot projects in which some courts are presumed open to the public. Those states are following the lead of Minnesota.

When Minnesota initiated its pilot project in 1998, opening child protection proceedings in 12 counties, it contracted with the National Center for State Courts (NCSC) to evaluate the project over a three-year period. The NCSC concluded that open courts had benefits including enhanced professional accountability, increased media and public attention to child protection issues, increased participation by the extended family, foster parents and service providers in child protection proceedings.¹ The report found that open hearings and records did not result in documented direct or indirect harm to any parties involved in child protection proceedings. As a result of the positive report, Minnesota opened all child-in-need-of-protection proceedings in 2001 and they remain open today.

We believe that Raised Bill No. 7039 strikes a balance between open courts and individual privacy needs. We urge you to support this bill. Give our most vulnerable children a way of being heard and give the public a way of holding the system created to protect these children accountable.

Thank you for your time and consideration.

Respectfully submitted,

Martha Stone (she)

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¹ Key Findings from the Evaluation of Open Hearing and Court Records in Juvenile Protection Matters. Volume I (Aug. 2001) (on file with the Minn. Sup. Ct. State Ct. Admin. Office).