

Center for Children's Advocacy

University of Connecticut School of Law
65 Elizabeth Street, Hartford, CT 06105

TESTIMONY OF THE CENTER FOR CHILDREN'S ADVOCACY IN SUPPORT OF RAISED BILL NO. 6702: AN ACT CONCERNING PUBLIC ACCESS TO PROCEEDINGS IN CERTAIN JUVENILE MATTERS

March 26, 2009

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. 6702, which provides that an open juvenile courts pilot program shall be implemented in three judicial districts in Connecticut. The bill provides guidance on when the public may observe child protection proceedings, while still ensuring that the interests of those children are protected. **We reached the decision that juvenile courts must be more transparent 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 specifically in place to protect these children have, in fact, failed them. And, we see how these systems and these failures are shrouded in secrecy.

However, to the public, these children are both nameless and faceless; their stories are never heard, the procedural and systemic failures are never seen. Closed juvenile court proceedings are the community's effort to protect children and their families from stigma and to ensure privacy. Unfortunately, these efforts actually serve to further harm children and families by silencing children who are the victims of abuse and ensuring that there is no accountability for the ineffective proceedings or systems that have failed these children.



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Raised Bill 6702 will greatly increase transparency and accountability in juvenile proceedings.

A movement towards greater transparency and accountability has become one of Connecticut's most prominent issues in the child welfare context. In the fall of 2008, the Connecticut legislature convened four days of hearings regarding the child welfare system and the Department of Children and Families. The outcome of these hearings was the public and the legislature's call for increased transparency in child welfare matters. Given the current climate, now is the appropriate time to implement Raised Bill 6702, as it takes a significant step towards accomplishing the accountability that is so necessary in Connecticut's system.

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 often excluded from court as a matter of course. Even relatives, who are supportive of the children, may not be allowed into court. The extended

family then has 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 does not 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 abused and who was taken away from his parents. They breathe a sigh of relief that the child is not with his parents and assume the child is in a better situation. 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 impermanent placements for months on end because there aren't enough foster homes. 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. Instead, it is harmful because the public has no means of finding the flaws in the system or holding it 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. 6702 does exactly that; permitting the public to attend abuse and neglect proceedings is a way of giving a voice to Connecticut's most vulnerable children.

Raised Bill No. 6702 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 bill, modeled after the current New York rule, maintains the Court's ability to exclude members of the public from child protection proceedings and sets out specific criteria for the Court to consider before doing so, including:

- 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 also gives the Court authority to prohibit the dissemination of any personally identifiable information disclosed during court proceedings.

If Raised Bill No. 6702 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. However, individual children and families would retain a significant level of privacy, and—if the court determined it was warranted—the public would be excluded.

Connecticut would not be the first state to open its child protection courts. **Indeed, juvenile proceedings are open in 20 states—Florida, Iowa, New York, New Jersey, Michigan, Minnesota, Oregon and Washington, to name a few.**¹ Additionally, in New Mexico and Illinois, the general public is excluded but the courts are open to the media.² And at least three

¹ Children's Advocacy Institute and First Star, State Secrecy and Child Deaths in the U.S. 11–12 (Apr. 2008), available at http://www.firststar.org/documents/State_Secrecy_Report.pdf.

² *Id.* at 15, 47.

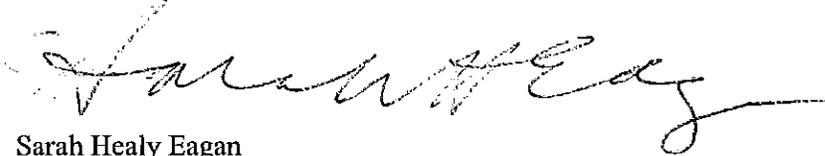
other states have dependency courts that are presumptively closed but subject to being opened under specified conditions.³ Those states are all following the lead of Minnesota.

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.**⁴ 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 6702 creates a pilot program that successfully strikes a balance between open courts and individual privacy needs, and we strongly 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,



Sarah Healy Eagan
Director of the Child Abuse Project
Center for Children's Advocacy

³ *Id.* at 11–12.

⁴ 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).

