STATE OF NEW YORK

8339--A

Cal. No. 431

IN SENATE

January 18, 2024

Introduced by Sen. MAYER -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- reported favorably from said committee, ordered to first and second report, amended on second report, ordered to a third reading, and to be reprinted as amended, retaining its place in the order of third reading

AN ACT to amend the family court act, in relation to establishing standards for public access to family court

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The family court act is amended by adding a new section 161-a to read as follows:

§ 161-a. Access to family court proceedings. 1. The family court shall be open to the public. Members of the public, including the news media, shall have access to all courtrooms, lobbies, public waiting areas and other common areas of the family court otherwise open to individuals with business before the court.

2. The general public or any person shall be excluded from a courtroom only if the court determines, on a case-by-case basis that such exclusion is warranted. In exercising this discretion, the court may consider, among other factors, the following:

(a) whether such person is causing or likely to cause a disruption in the proceedings;

(b) whether such person's presence is objected to by one of the parties or the attorney for the child;

(c) the orderly and sound administration of justice, including the nature of such proceeding, the privacy interests of individuals before the court, and the need for protection of litigants, in particular, children, from harm; and

(d) whether less restrictive alternatives to exclusion are unavailable or inappropriate for the circumstances of the particular case.

3. Where a court exercises its discretion in excluding any person, the general public, or news media from a proceeding or a part of a proceed-

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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ing in family court, it shall make a finding on the record prior to ordering such exclusion.

4. When necessary to preserve the decorum of such proceedings, the court shall instruct representatives of the news media and others regarding permissible use of such courtroom and other facilities of such court, the assignment of seats to representatives of such news media on an equitable basis, and any other matters that may affect the conduct of such proceedings and the well-being and safety of the parties before the court.

5. Nothing in this section shall limit the responsibility and authority of the chief administrator of the courts, or the administrative judges with the approval of the chief administrator of the courts, to ensure the prevention of the release of sensitive information by any person or entity, including the press, concerning persons, including a child, having business before the court.

§ 2. Section 341.1 of the family court act, as added by chapter 920 of the laws of 1982, is amended to read as follows:

§ 341.1. Exclusion of general public. The general public may be excluded from any proceeding under this article, in compliance with section one hundred sixty-one-a of this act, and only such persons and the representatives of authorized agencies as have a direct interest in the case shall be admitted thereto.

§ 3. Subdivision (a) of section 433 of the family court act, as amended by chapter 809 of the laws of 1985, is amended to read as follows:

[~~(a)~~] Hearing. (a) Upon the return of the summons or when a respondent is brought before the court pursuant to a warrant, the court shall proceed to hear and determine the case. The respondent shall be informed of the contents of the petition, advised of [~~his~~] their right to counsel, and shall be given opportunity to be heard and to present witnesses. The court may exclude the public from the court room in a proper case, in compliance with section one hundred sixty-one-a of this act.

§ 4. Section 531 of the family court act, as amended by chapter 665 of the laws of 1976, is amended to read as follows:

§ 531. Hearing. The trial shall be by the court without a jury. The mother or the alleged father shall be competent to testify but the respondent shall not be compelled to testify. If the mother is married both she and her husband may testify to nonaccess. If the respondent shall offer testimony of access by others at or about the time charged in the complaint, such testimony shall not be competent or admissible in evidence except when corroborated by other facts and circumstances tending to prove such access. The court may exclude the general public from the room where the proceedings are heard and may admit only persons directly interested in the case, including officers of the court and witnesses. Exclusion of the public pursuant to this section shall comply with section one hundred sixty-one-a of this act.

§ 5. Subdivision (b) of section 741 of the family court act is amended to read as follows:

(b) The general public may be excluded from any hearing under this article, in compliance with section one hundred sixty-one-a of this act, and only such persons and the representatives of authorized agencies admitted thereto as have a direct interest in the case.

§ 6. Section 1043 of the family court act, as amended by chapter 682 of the laws of 1975, is amended to read as follows:

§ 1043. Hearings not open to the public. The general public may be excluded from any hearing under this article**, in compliance with section one hundred sixty-one-a of this act,** and only such persons and the representatives of authorized agencies admitted thereto as have an interest in the case.

§ 7. This act shall take effect immediately.