

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:

1 Section 1. The family court act is amended by adding a new section
2 161-a to read as follows:

3 § 161-a. Access to family court proceedings. 1. The family court shall
4 be open to the public. Members of the public, including the news media,
5 shall have access to all courtrooms, lobbies, public waiting areas and
6 other common areas of the family court otherwise open to individuals
7 with business before the court.

8 2. The general public or any person shall be excluded from a courtroom
9 only if the court determines, on a case-by-case basis that such exclu-
10 sion is warranted. In exercising this discretion, the court may consid-
11 er, among other factors, the following:

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

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

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

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

22 3. Where a court exercises its discretion in excluding any person, the
23 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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1 ing in family court, it shall make a finding on the record prior to
2 ordering such exclusion.

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

10 5. Nothing in this section shall limit the responsibility and authori-
11 ty of the chief administrator of the courts, or the administrative judg-
12 es with the approval of the chief administrator of the courts, to ensure
13 the prevention of the release of sensitive information by any person or
14 entity, including the press, concerning persons, including a child,
15 having business before the court.

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

18 § 341.1. Exclusion of general public. The general public may be
19 excluded from any proceeding under this article, in compliance with
20 section one hundred sixty-one-a of this act, and only such persons and
21 the representatives of authorized agencies as have a direct interest in
22 the case shall be admitted thereto.

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

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

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

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

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

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

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

1 § 1043. Hearings not open to the public. The general public may be
2 excluded from any hearing under this article, in compliance with section
3 one hundred sixty-one-a of this act, and only such persons and the
4 representatives of authorized agencies admitted thereto as have an
5 interest in the case.

6 § 7. This act shall take effect immediately.