

**Testimony in General Support of:
S.B. No. 1479, An Act Concerning Judicial Branch Openness**

But Opposing Opening of Child Protection Proceedings (Sections 15 and 16).

Testimony of:
Shelley Geballe, J.D., M.P.H, Mary A. Glassman, J.D., William Bowen, and Jason Chlipala¹
To the Judiciary Committee
April 10, 2007

Dear Senator McDonald, Representative Lawlor, and Members of the Judiciary Committee:

We testify on behalf of Advocates for Connecticut's Children and Youth (ACCY), a statewide, independent, citizen-based organization dedicated to speaking up for children and youth in the policy making process that has such a great impact on their lives. ACCY is the sister lobbying organization of Connecticut Voices for Children, on whose behalf we also testify.

Although we strongly support most parts of Senate Bill No. 1479, An Act Concerning Judicial Branch Openness bill, which would open to the public and media most judicial proceedings, we have serious concerns about sections 15 and 16 that would apply the same presumption of openness to proceedings concerning child abuse and neglect. A balancing of interests suggests that these proceedings should remain presumptively closed to the media and public to protect the victim children from further harm caused by the proceedings themselves and what might be publicly revealed.

We urge this Committee to amend section 15 explicitly to exclude child protection proceedings from those civil proceedings in Superior Court to which the media would be admitted under that section. We also urge this Committee to delete section 16 in its entirety or, in the alternative, substitute language that would allow only a Child Protection Oversight Council to have access to such proceedings (see below).

Those who might favor opening even these proceedings to the public and media seek to create a better way of monitoring the juvenile court system. We concur that oversight of the juvenile court system is essential to ensure the system is working properly and fairly. This is especially true in Connecticut right now where establishing adequate legal representation in child protection proceedings has been a significant challenge. The proposal to open all proceedings to the public and the media, however, is a dangerous way to achieve this goal.

¹ Mr. Bowen and Mr. Chlipala are Yale Law students participating in the Yale Legislative Services program and have prepared this testimony under the supervision of Attorney Shelley Geballe (President, Connecticut Voices for Children), Attorney Mary Glassman (Director, Advocates for Connecticut's Children and Youth) and Professor J. L. Pottenger, Jr. (Legislative Advocacy Clinic, Yale Law School).

Opening child abuse and neglect proceedings to the public raises serious concerns about children's privacy. Confidentiality is an important safeguard for children involved in the juvenile court, particularly in child protection cases. In jurisdictions with open proceedings, newspapers have printed articles detailing instances of abuse and nauseating photos including the names of children involved.² For many children who have been the victims of child abuse or neglect, open proceedings could subject them to, or exacerbate, stigmatization and trauma.

Although proceedings could be observed, opening up the courts may not improve the quality of legal representation for children. Connecticut's current level and method of compensation for attorneys in child protection proceedings encourages attorneys to accept a large number of cases and spend a minimal amount of time on each. The inadequacy of this system in encouraging effective representation of children and parents is not likely to be fixed by opening the courts.

Access to the courts will not necessarily lead to informed scrutiny by the general public and the media that will improve the system. Two reports that some cite as providing support for opening up the courts are based on experiences in Minnesota and Arizona. Both reports, however, were substantially flawed; the authors did not consult with any children, parents, or treating psychologists in assessing the potentially harmful effects of opening courts.³ Sensational media coverage and surveillance by curious citizens may actually cause more harm than good to the children involved in these cases.

There are ways to provide a check on the juvenile court system that are not as likely to endanger the privacy rights of the children involved. **One promising idea is the creation of a child protection oversight council to monitor child protection proceedings. This council could consist of experts from the legal, juvenile psychiatric, and educational fields, as well as several members of the public appointed by members of the legislature. After agreeing not to disclose any identifying information, members would be allowed to observe child protection proceedings and annually report on their findings regarding the operation of those proceedings to the Connecticut General Assembly. This system would help assess and improve the child protection system while at the same time avoid invading the privacy of the children involved.**

Thank you for the opportunity to testify today.

² See William Wesley Patton, *Revictimizing Child Abuse Victims: An Empirical Rebuttal To The Open Juvenile Dependency Court Reform Movement*, 38 Suffolk Univ. L. Rev. 303, 325-28 (2005).

³ [Fred L. Chessman, National Center for State Courts, Key Findings from the Evaluation of Open Hearings and Court Records in Juvenile Protection Matters \(2001\); Gregory B. Broberg, Arizona Open Dependency Hearing Pilot Study: Final Report \(March 5, 2006\).](#)