

Department of Finance and Administration

Legislative Impact Statement

Bill: SB166

Bill Subtitle: TO ALLOW THE PUBLIC TO ATTEND HEARINGS CONCERNING CHILD SUPPORT, PATERNITY, AND MATTERS HEARD UNDER THE ARKANSAS JUVENILE CODE OF 1989; AND TO ALLOW THE PUBLIC TO OBTAIN CERTAIN COURT FILES AND RECORDS.

Basic Change :

Sponsor: Sen. A. Clark

SB166 creates new Subchapter 4 in Title 9, Chapter 8. Under new section § 9-8-401, the public would be permitted to attend hearings for child support and establishment of paternity. The court may close a child support or paternity hearing to the public, exclude certain persons in specified circumstances, and permit the installation and use of electronic recording and transmission equipment during a hearing upon request. Under new section § 9-8-402, the public would be permitted, upon order of the court and unless otherwise provided by Title 9, Chapter 8, to inspect court records relating to hearings to establish paternity, establish, modify, and enforce child support, and employment-related dependent health care coverage. Further, public inspection of court records related to hearings for child support and paternity open to the public under § 9-8-401 would be permitted.

SB166 creates a new section at § 9-27-101 to generally prohibit the public from attending hearings in the juvenile division of circuit court. However, the public may attend hearings relating to juvenile commission of specified classes of felonies and delinquency adjudications unless the hearing related to allegations of sexual assault, disposition hearings, and dependency proceedings. Further, the court may close a hearing or exclude individuals in specified circumstances. As above, the installation and use of electronic recording and transmission equipment during a hearing may be permitted upon request. Under new section § 9-27-103, public inspection of court records related to juvenile court hearings would be permitted by court order. Further, public inspection of court records related to public hearings under § 9-27-101 would be permitted.

Revenue Impact :

None.

Taxpayer Impact :

Statutory provisions for public access, recording and transmission of hearings, and public access to records of child support, paternity, and juvenile proceedings would be amended.

Resources Required :

No additional DFA/OCSE resources required.

Time Required :

There are no DFA/Office of Child Support Enforcement implementation requirements.

Procedural Changes :

No DFA/OCSE procedural changes are needed.

Department of Finance and Administration

Legislative Impact Statement

Bill: SB166

Bill Subtitle: TO ALLOW THE PUBLIC TO ATTEND HEARINGS CONCERNING CHILD SUPPORT, PATERNITY, AND MATTERS HEARD UNDER THE ARKANSAS JUVENILE CODE OF 1989; AND TO ALLOW THE PUBLIC TO OBTAIN CERTAIN COURT FILES AND RECORDS.

Other Comments :

None.

Legal Analysis :

Currently, hearings for child support and paternity are generally open to the public. SB166 would extend access to permit audiovisual recording and transmission and still photography of hearings for child support, paternity, and juvenile proceedings upon request. This conflicts with Arkansas Supreme Court Administrative Order No. 6 which generally permits broadcasting, recording, and photographing court proceedings but prohibits the same in juvenile matters, probate, and domestic relations matters, including support and paternity, and in drug court proceedings.

Court records are generally accessible to the public. Arkansas Supreme Court Administrative Order No. 19 provides for public access to court records with some limitations related to the nature or content of the record. Exceptions are made to this general rule if disclosure of the record is prohibited by state or federal law or order of the court, if the record contains Social Security numbers or financial account numbers, records of sealed or expunged cases, notes and materials related to decisions of judges, jurors, court staff, and judicial agencies, and the home and business address of an individual seeking a domestic order of protection and requesting anonymity. Records are available to the public with confidential information redacted and with indication of the fact of the redaction. However, confidential information disclosed in open court and part of a trial transcript is not excluded from public access. SB166 would permit public access to all records of child support and paternity hearings unless otherwise provided under Title 9, Chapter 8. It's unclear if, by specifying "records of the court in a hearing", it is intended that the public's access to court records be limited to only cases in which a hearing was conducted and related to that hearing.

As noted above, Admin. Order No. 19, excludes certain sensitive information such as Social Security numbers and financial account records from public access. Admin. Order No. 10 similarly restricts public access to notices of income withholding for child support which typically include personal identifying information regarding the parties and children. At § 9-14-205, parties in child support cases are required to file with the circuit clerk a form providing their Social Security numbers, drivers' license number, home and employer address, and telephone number. The filed forms are to be kept confidential and open only to OCSE, the parties and their attorneys, or as authorized by the circuit court. SB166 does not appear to shield personal identifying information that may be found in child support and paternity records from public access.

SB166 specifies public access to records of hearings under: (1) § 9-10-101 et seq. relating to establishment of paternity; (2) § 9-14-101 et seq., relating to establishment of child support; (3) § 9-15-101 et seq., relating to enforcement of child support; and (4) § 9-14-501 et seq. relating to employment related dependent health care coverage. However, SB166 would not require public access to records related to child support hearings arising out of a divorce proceeding under § 9-12-101 et seq. or an interstate proceeding under § 9-17-101 et seq. This may create confusion in cases in which relief is sought under multiple sections and chapters.