

1-1 By: Birdwell S.B. No. 1728  
 1-2 (In the Senate - Filed March 9, 2017; March 23, 2017, read  
 1-3 first time and referred to Committee on Criminal Justice;  
 1-4 April 10, 2017, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 8, Nays 0; April 10, 2017,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16			X	
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1728 By: Whitmire

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to public access to juvenile court proceedings.  
 1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
 1-23 SECTION 1. Section 54.08, Family Code, is amended to read as  
 1-24 follows:  
 1-25 Sec. 54.08. PUBLIC ACCESS TO COURT PROCEEDINGS [~~HEARINGS~~].  
 1-26 (a) Except as provided by this section, the court shall open  
 1-27 proceedings [~~hearings~~] under this title to the public unless the  
 1-28 court, on the motion of any party to a proceeding and based on the  
 1-29 evidence presented [~~for good cause shown~~], determines that:  
 1-30 (1) there exists a reasonable and substantial basis  
 1-31 for believing that public access to the proceeding could harm the  
 1-32 child, endanger the child's right to a fair trial, or endanger a  
 1-33 victim of the conduct of the child;  
 1-34 (2) the potential for harm to the child or a victim  
 1-35 outweighs the benefits of public access to the proceeding; and  
 1-36 (3) the harm can be remedied only by excluding the  
 1-37 public from the proceeding [~~the public should be excluded~~].  
 1-38 (b) A motion by a party to exclude the public from a  
 1-39 proceeding must be made in writing and served on all parties not  
 1-40 later than the third day before the date the proceeding is scheduled  
 1-41 to occur.  
 1-42 (c) On receipt of a motion to exclude the public from a  
 1-43 proceeding, the court must conduct an evidentiary hearing in open  
 1-44 court on the motion to determine whether exclusion of the public  
 1-45 from the proceeding is warranted under Subsection (a). General  
 1-46 considerations, including concern for rehabilitation of the child,  
 1-47 are insufficient to warrant exclusion of the public from a  
 1-48 proceeding.  
 1-49 (d) On conclusion of the evidentiary hearing under  
 1-50 Subsection (c), the court shall order the proceeding to be open to  
 1-51 the public unless the court issues written findings of fact and  
 1-52 conclusions of law stating that the evidence of potential harm to  
 1-53 the child or to a victim presented under Subsection (a) clearly  
 1-54 outweighs the public interest in a proceeding that is open to the  
 1-55 public.  
 1-56 (e) Any party to a proceeding has standing to appeal an  
 1-57 order of the court excluding the public from the proceeding.  
 1-58 (f) Any party to a proceeding objecting to an order  
 1-59 excluding the public from the proceeding is entitled to an  
 1-60 immediate appeal of that order. The notice of appeal must be filed

2-1 not later than the seventh day after the date the order is entered  
2-2 or the date the public is excluded from the proceeding. The filing  
2-3 of a notice of appeal shall stay further proceedings pending the  
2-4 disposition of the interlocutory appeal.

2-5 (g) The court of appeals shall expeditiously review an  
2-6 appeal under this section.

2-7 (h) The court may not prohibit a person who is a victim of  
2-8 the conduct of a child, or the person's family, from personally  
2-9 attending a proceeding [hearing] under this title relating to the  
2-10 conduct by the child unless the victim or member of the victim's  
2-11 family is to testify in the proceeding [hearing] or any subsequent  
2-12 proceeding [hearing] relating to the conduct and the court  
2-13 determines that the victim's or family member's testimony would be  
2-14 materially affected if the victim or member of the victim's family  
2-15 hears other testimony at trial.

2-16 (i) [~~e~~] If a child is under the age of 14 at the time of  
2-17 the proceeding: [hearing,]

2-18 (1) Subsections (a), (b), (c), (d), (e), (f), and (g)  
2-19 do not apply to a proceeding involving the child; and

2-20 (2) the court shall close the proceeding [hearing] to  
2-21 the public unless the court finds that the interests of the child or  
2-22 the interests of the public would be better served by opening the  
2-23 proceeding [hearing] to the public.

2-24 (j) [~~d~~] In this section, "family" has the meaning  
2-25 assigned by Section 71.003.

2-26 SECTION 2. This Act takes effect September 1, 2017.

2-27 \* \* \* \* \*