

# OPEN COURTS PILOT PROJECT: Report on Phase One

Kentucky Administrative Office of the Courts  
September 2019



In 2016, the Kentucky General Assembly passed Senate Bill 40, which requested that the Supreme Court of Kentucky institute a pilot project to study the feasibility and desirability of opening court proceedings related to dependency, neglect and abuse, and termination of parental rights with the exception of proceedings related to sexual abuse.

SB 40 became three new Kentucky Revised Statutes: KRS 21A.190, KRS 21A.192 and KRS 610.072. KRS 21A.190 provides the guidelines and framework for implementing an Open Courts Pilot Project, KRS 21A.192 provides the procedures that shall be followed, and KRS 610.072 addresses the attendance of the public at these hearings.

The Supreme Court accepted the request and entered Supreme Court Order 2018-05, which adopted the statutory framework, guidelines and procedures. The order also gave the parameters of the first stage of the Open Courts Pilot Project. Pursuant to Order 2018-05 and KRS 21A.190, the framework is as follows:

- The pilot project may be established in a minimum of three diverse judicial districts or judicial circuits;
- A pilot project shall not be established in a district if the applicable judge or county attorney objects;
- The pilot project shall require participating courts to be presumptively open; and
- The pilot project shall last for four years unless extended by the General Assembly.

The goal is to examine the open courts involved with the pilot project to determine:

- Whether any adverse effects result from the opening of certain proceedings or the release of records.
- Whether the pilot project demonstrates a benefit to the litigants.
- Whether the pilot project demonstrates a benefit to the public.
- Whether the pilot project supports a determination that such proceedings should be presumptively open.
- Whether the pilot project supports a determination that such proceedings should be presumptively closed.
- How open proceedings under the pilot project impact the child.

The Administrative Office of the Courts is required to monitor and evaluate the Open Courts Pilot Project, which includes systemic data collection related to the parameters listed above. The AOC reviewed several open court studies performed in other states to identify beneficial and detrimental practices for such a study and to generally inform the development of Kentucky's pilot project.

The AOC also convened an Open Courts Planning Workgroup to develop the study. The workgroup developed surveys and forms to measure participants' (families and professionals) views and the impact of open courts on the court experience. The pilot project concluded by conducting focus groups of professional participants to collect their final opinions.

The first phase of the pilot project involved opening pilot case dockets in three judicial circuits: Jefferson (Circuit 30), Hopkins (Circuit 4) and Harrison, Nicholas, Pendleton and Robertson (Circuit 18). Information collected in those circuits was compared to control data collected in three circuits that remained closed during the pilot project: Fayette (Circuit 22), Christian (Circuit 3) and Ohio, Butler, Edmonson and Hancock (Circuit 38). The pilot courts were open to the public from March 2018 to May 2018 (open court period). Data collection tools were used during the open court period and focus groups were conducted before and after the open court period.

The AOC Division of Research & Statistics compiled and analyzed the data. The observations from both open and closed courts provided a comparison on the impact of open and closed courts on the parties and on hearing quality. You can find the report that was submitted to the General Assembly on the Kentucky Court of Justice website at <https://kycourts.gov/aoc/familyjuvenile/Pages/open-family-court-pilot-project.aspx>. The most notable outcomes were as follows:

- Professionals (judges, attorneys, court staff, social services workers and others) who participated in pilot cases generally reported that opening courts had a negative or neutral effect on court proceedings and outcomes. A strong majority reported, however, that opening courts **did not** affect the efficiency of the proceedings, respect shown to parties, hearing quality, content of reports, services offered to families or the level of preparation by the professionals involved. A similar majority reported that opening courts had a negative or neutral impact on the children and parties (such as parents and custodians).
- Family members who participated in and attended the pilot DNA and TPR cases reported similar neutral or negative effects of open courts. A majority reported that they felt open courts had either a negative or neutral impact on the children involved in the proceeding, attorney preparation, social services worker engagement and services offered. A majority also either disagreed or were neutral when asked whether open courts were helpful to them. When asked whether open courts would benefit children and families in pilot cases, the results were mixed.
- The data yielded some court-quality information, but it was difficult to determine whether it was related to the pilot courts being open. For instance, most of the family members reported that the proceeding was fair.

During the second phase of the pilot project, data collection will be collected in Fayette Circuit Court, Family Division to determine whether the findings differ from the data collected while Fayette was a control site. Meetings have been scheduled with Family Court judges in Fayette County to determine logistics for the second phase, which is on pace to begin in the fall of 2019.

This report is respectfully submitted by the following staff of the Administrative Office of the Courts:  
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