



## Judges' Hearing Checklist: Courtroom Closures for Child Witnesses

### Court Closures Generally<sup>1</sup>

- Generally, court proceedings should be open to the public.
- Denial of a public trial warrants automatic reversal; it is not subject to review for harmless error.
- The right to public trial includes jury selection.
- Trial courts are “obligated to take every reasonable measure to accommodate public attendance” at criminal proceedings, including:
  - Reserving some seating in the courtroom for public attendance.
  - Dividing prospective jurors into smaller groups to prevent overcrowding.
  - Instructing prospective jurors to not interact with members of the audience.

#### **Federal Constitutional Limitations on Court Closures (*Waller*, 467 U.S. 39 (1984))**

Required Findings	<p>Court closure is only appropriate when:</p> <ul style="list-style-type: none"> <li>○ The party seeking closure has an overriding interest likely to be prejudiced by keeping the court open.</li> <li>○ The closure is no more expansive than necessary to protect the overriding interest.</li> <li>○ The trial court has considered reasonable alternatives to closure.</li> <li>○ And the court makes adequate findings on the record to support the closure.</li> </ul>
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#### **Arkansas Law on De Minimis Closures (*Schnarr*, 2017 Ark. 10)**

Required Findings	<p>A de minimis closure does not violate the defendant’s right to a public trial; to determine whether a closure is de minimis, a court must consider and make findings on the record concerning:</p> <ul style="list-style-type: none"> <li>○ The length of the closure.</li> <li>○ The significance of the proceedings that took place during the closure.</li> <li>○ The scope of the closure.</li> </ul>
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<sup>1</sup> The information in this checklist applies to criminal proceedings against adults. Arkansas Code Annotated § 9-27-325 provides guidance on court closures in proceedings for juvenile delinquency, child maltreatment, and children in foster care.