

By: Wise

H.B. No. 73

A BILL TO BE ENTITLED

AN ACT

relating to certain confidential communications.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 38, Code of Criminal Procedure, is amended by adding Article 38.06 to read as follows:

Art. 38.06. COMMUNICATIONS TO VICTIM COUNSELOR. (a) In this article:

(1) "Confidential communication" means a communication made privately and not intended for disclosure to a third person except to another person present in furtherance of the purpose of the communication. The term includes a record or other document on which the communication is reduced to a written form.

(2) "Victim counselor" means a person who has successfully completed academic or other formal training in counseling victims of crime and who treats victims of crime for an emotional or psychological condition resulting from the crime.

(b) The victim of a crime has a privilege to refuse to disclose and to prevent another from disclosing a confidential communication by the victim to a victim counselor for the purpose of receiving victim counseling services.

(c) If the victim of a crime is a person younger than 16 years of age, the parent or guardian of the victim may assert the privilege on behalf of the victim unless the parent or guardian is accused of committing the crime. If a parent or guardian of the

1 victim of a crime who is younger than 16 years of age is accused of  
2 committing the crime, a guardian appointed by the court to  
3 represent the best interests of the victim may assert the privilege  
4 on behalf of the victim.

5 SECTION 2. (a) This Act takes effect September 1, 2003,  
6 and applies to any communication made to a victim counselor on or  
7 after September 1, 2003.

8 (b) To the extent of any conflict between Article 38.06,  
9 Code of Criminal Procedure, as added by this Act, and Rule 509(b),  
10 Texas Rules of Evidence, Article 38.06 controls.