

By: Raymond

H.B. No. 3402

A BILL TO BE ENTITLED

AN ACT

relating to the privilege of a child to refuse to testify against the child's parent or guardian.

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

SECTION 1. Chapter 38, Code of Criminal Procedure, is amended by adding Article 38.0741 to read as follows:

Art. 38.0741. PRIVILEGE OF CHILD. (a) In this article, "child" has the meaning assigned by Section 22.011(c), Penal Code.

(b) A child has a privilege to refuse to testify against the child's parent or guardian in a criminal proceeding.

(c) The privilege to refuse to testify may be claimed only by the child.

(d) The privilege of a child to refuse to testify against the child's parent or guardian does not apply:

(1) in any proceeding in which the parent or guardian is charged with an offense against the child or a member of the child's household; or

(2) if the parent or guardian has been convicted of an offense against the child.

(e) This article does not prohibit the child from testifying voluntarily against the child's parent or guardian. A child who testifies voluntarily is subject to cross-examination.

SECTION 2. Subchapter B, Chapter 22, Civil Practice and Remedies Code, is amended by adding Section 22.012 to read as

1 follows:

2 Sec. 22.012. PRIVILEGE OF CHILD. (a) In this section,
3 "child" means a person younger than 17 years of age.

4 (b) A child has a privilege to refuse to testify against the
5 child's parent or guardian in a civil proceeding.

6 (c) The privilege to refuse to testify may be claimed only
7 by the child.

8 (d) The privilege of a child to refuse to testify against
9 the child's parent or guardian does not apply if:

10 (1) at the time of the civil proceeding the parent or
11 guardian is the defendant in a pending criminal matter in which the
12 parent or guardian is charged with an offense against the child or a
13 member of the child's household; or

14 (2) the parent or guardian has been convicted of an
15 offense against the child.

16 (e) This section does not prohibit the child from testifying
17 voluntarily against the child's parent or guardian. A child who
18 testifies voluntarily is subject to cross-examination.

19 SECTION 3. This Act takes effect September 1, 2013.