

By: Raymond

H.B. No. 1175

A BILL TO BE ENTITLED

AN ACT

relating to certain privileges of a child in a criminal or civil proceeding involving 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:

(1) "Child" has the meaning assigned by Section 22.011(c), Penal Code.

(2) "Confidential communication" means a communication that is made privately by a child to the child's parent or guardian and is not intended to be disclosed to any other person.

(b) A child has a privilege to refuse to testify against the child's parent or guardian in a criminal proceeding. A child has a privilege in a criminal proceeding to refuse to disclose and to prevent another from disclosing a confidential communication made to the child's parent or guardian.

(c) A privilege under this article may be claimed only by a child.

(d) A privilege under this article does not apply:

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

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

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

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

9 Sec. 22.012. PRIVILEGE OF CHILD. (a) In this section:

10 (1) "Child" means a person younger than 17 years of
11 age.

12 (2) "Confidential communication" means a
13 communication that is made privately by a child to the child's
14 parent or guardian and is not intended to be disclosed to any other
15 person.

16 (b) A child has a privilege to refuse to testify against the
17 child's parent or guardian in a civil proceeding. A child has a
18 privilege in a civil proceeding to refuse to disclose and to prevent
19 another from disclosing a confidential communication made to the
20 child's parent or guardian.

21 (c) A privilege under this section may be claimed only by a
22 child.

23 (d) A privilege under this section does not apply if:

24 (1) at the time of the civil proceeding the parent or
25 guardian of a child is charged with a criminal offense against the
26 child or a member of the child's household; or

27 (2) the parent or guardian has been convicted of an

1 offense against the child.

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

5 SECTION 3. The changes in law made by this Act apply only to
6 a criminal proceeding or civil action that commences on or after the
7 effective date of this Act. A proceeding or action that commences
8 before the effective date of this Act is governed by the law in
9 effect on the date the proceeding or action commences, and the
10 former law is continued in effect for that purpose.

11 SECTION 4. This Act takes effect September 1, 2015.