

By: Raymond

H.B. No. 1176

A BILL TO BE ENTITLED

AN ACT

relating to certain privileges of a parent or guardian in a criminal or civil proceeding involving a child of the 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 38.0742 to read as follows:

Art. 38.0742. PRIVILEGE OF PARENT OR GUARDIAN. (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 parent or guardian to a child of the parent or guardian and is not intended to be disclosed to any other person.

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

(c) A privilege under this article may be claimed only by a parent or guardian.

(d) A privilege under this article does not apply in any proceeding in which the child is charged with an offense against the

1 child's parent or guardian or a member of the parent's or guardian's
2 household.

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

7 SECTION 2. Subchapter B, Chapter 22, Civil Practice and
8 Remedies Code, is amended by adding Section 22.013 to read as
9 follows:

10 Sec. 22.013. PRIVILEGE OF PARENT OR GUARDIAN. (a) In this
11 section:

12 (1) "Child" means a person younger than 17 years of
13 age.

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

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

24 (c) A privilege under this section may be claimed only by a
25 parent or guardian.

26 (d) A privilege under this section does not apply if, at the
27 time of the civil proceeding, the child of the parent or guardian is

1 charged with a criminal offense against the parent or guardian or a
2 member of the parent's or guardian's household.

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

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

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