Parent-Child Privilege (S.817 and H.754)

Protect parents from being compelled to testify against their children

Lead Sponsors: Senator Cynthia Creem and Representative Claire Cronin

A child's relationship with a parent is often the most important and intimate one in his or her life, and a parent is almost always a child's gateway to religious, medical or legal help. Despite this, parents in the Commonwealth can be legally compelled to testify against their children in court. A parent-child privilege would allow parents to give their children the guidance and support they need without fear that it will be used against them. Today, children cannot be forced to testify against their parents, but parents can be compelled to testify against their children. This undermines the parent-child relationship, and parents’ critical role at all stages of the juvenile justice process.

Why Do We Need a Parent-Child Privilege?

We rely on parents to play a critical role in the juvenile justice system by ensuring that children can exercise their rights and obtain services:

- Children cannot hire an attorney, only their parents or guardian can.
- Most children do not adequately understand their constitutional rights, therefore, Massachusetts requires an “interested adult,” typically a parent, to advise a child of his or her rights before he or she can waive any of them. This requirement varies by age, but parental assistance is presumed to be needed.
- Children rely on their parents, especially when they are in crisis, to access professional assistance (from a doctor, therapist, etc.)

The Solution

- Expand testimonial privilege to protect parents from having to testify against their children.
- Allow an exception when the victim is a family member who resides in the same household.
- If communication is advice on legal rights and decision-making, the communication is protected, even if the victim is a family member who resides in the same household.
- Redefines “parent” to meet varied family situations to include “the biological or adoptive parent, stepparent, foster parent or legal guardian.”

For more information, please contact Sana Fadel at Citizens for Juvenile Justice sanafadel@cfjj.org or 617-338-1050

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