

By Senator Geller

29-1925-98

See HB

1 A bill to be entitled
 2 An act relating to privileged communications
 3 between parent and child; creating s. 90.5045,
 4 F.S.; providing for a parent-child privilege
 5 pursuant to which the parent or child may
 6 refuse to disclose, or prevent another from
 7 disclosing, certain communications intended to
 8 be made in confidence between the parent and
 9 the child; providing for the privilege to be
 10 claimed by the child or parent, or the child's
 11 or parent's guardian or conservator; providing
 12 a legal presumption for authority to claim the
 13 privilege absent contrary evidence; providing
 14 that there is no parent-child privilege in
 15 certain legal proceedings brought against a
 16 family member by or on behalf of another family
 17 member, in prosecutions or other criminal
 18 proceedings involving commission of a crime or
 19 delinquent act or in investigations of murder
 20 or sexual battery, or in certain matters
 21 involving the Department of Juvenile Justice or
 22 Department of Children and Family Services;
 23 providing for waiver of the privilege;
 24 providing an effective date.

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 26 Be It Enacted by the Legislature of the State of Florida:

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 28 Section 1. Section 90.5045, Florida Statutes, is
 29 created to read:

30 90.5045 Parent-child privilege.--
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1 (1) A child or parent has a privilege because of the
2 family relationship to refuse to disclose, and to prevent
3 another from disclosing, communications which were intended to
4 be made in confidence between the parent and the child. This
5 privilege is intended to continue based upon the privacy of
6 the family relationship whether or not the family members
7 reside together.

8 (2) The privilege may be claimed by either the child
9 or parent or by the guardian or conservator of the child or
10 parent. The authority of a child or parent, or guardian or
11 conservator of the parent or child, to claim the privilege is
12 presumed in the absence of contrary evidence.

13 (3) There is no privilege under this section:

14 (a) In a proceeding brought by or on behalf of one
15 member of the family against another member of the family.

16 (b) In a prosecution or other criminal proceeding
17 involving the commission of a crime or delinquent act or in an
18 investigation of murder or sexual battery.

19 (c) In Department of Juvenile Justice or Department of
20 Children and Family Services matters as part of established or
21 institutional proceedings relating to the well-being of the
22 child or the parent, including, but not limited to, matters
23 alleging child abuse, child neglect, abandonment, nonsupport
24 by a parent, or domestic violence against a parent.

25 (4) This privilege may be waived by the express
26 consent to disclosure by a parent or child entitled to claim
27 the privilege, or by the parent or child who made the
28 communication, or by failure of the parent or child to object
29 when the contents of a communication are demanded.

30 Section 2. This act shall take effect July 1,1998.

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LEGISLATIVE SUMMARY

Provides for a parent-child privilege pursuant to which the parent or child may refuse to disclose, or prevent another from disclosing, certain communications intended to be made in confidence between the parent and the child. Provides for the privilege to be claimed by the child or parent, or the child's or parent's guardian or conservator. Provides a legal presumption for authority to claim the privilege absent contrary evidence. Provides that there is no parent-child privilege in certain legal proceedings brought against a family member by or on behalf of another family member, in prosecutions or other criminal proceedings involving commission of a crime or delinquent act or in investigations of murder or sexual battery, or in certain matters involving the Department of Juvenile Justice or Department of Children and Family Services. Provides for waiver of the privilege.