

By Senator Geller

29-424-00

1 A bill to be entitled
2 An act relating to parent-child privilege;
3 creating s. 90.5045, F.S.; creating a
4 parent-child privilege to prevent disclosure of
5 communications that were intended to be made in
6 confidence; providing proceedings in which the
7 privilege does not exist; providing for waiver
8 of the privilege; providing an effective date.

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

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12 Section 1. Section 90.5045, Florida Statutes, is
13 created to read:

14 90.5045 Parent-child privilege.--

15 (1) A child and the parent of that child have a
16 privilege, because of the family relationship, to refuse to
17 disclose, and to prevent another from disclosing,
18 communications that were intended to be made in confidence
19 between them.

20 (2) The privilege may be claimed by either the child
21 or the parent, or by the guardian or conservator of the child
22 or parent. The authority of a child or the child's parent, or
23 guardian or conservator of the child or parent, to claim the
24 privilege is presumed in the absence of contrary evidence.

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

26 (a) In any proceeding brought by or on behalf of the
27 child against the child's parent.

28 (b) In any proceeding brought by or on behalf of the
29 child's parent against the child.

30 (c) In a criminal proceeding in which the child is
31 charged with a crime committed at any time against the person

1 or property of the child's parent, or the person or property
2 of any other child of the child's parent.

3 (d) In a criminal proceeding in which the child's
4 parent is charged with a crime committed at any time against
5 the person or property of the child, or the person or property
6 of a child of the child.

7 (e) In any criminal or other governmental
8 investigation involving allegations of sexual abuse, physical
9 abuse, neglect, abandonment, or nonsupport of a child by a
10 parent of that child.

11 (f) In any criminal or other governmental
12 investigation involving allegations of sexual or physical
13 abuse of a parent by a child of that parent.

14 (g) In any proceeding governed by the Florida Family
15 Law Rules of Procedure or Florida Juvenile Rules of Procedure.

16 (4) This privilege may be waived if both the parent
17 and the child expressly consent to the disclosure of the
18 communications; however, if the child has not reached majority
19 or been otherwise emancipated, the child's stated consent is
20 invalid or ineffective unless it is approved by a court of
21 competent jurisdiction, which approval must be withheld unless
22 approval of the stated consent would serve the best interests
23 of the child.

24 Section 2. This act shall take effect July 1, 2000.

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27 SENATE SUMMARY

28 Establishes a parent-child privilege to prevent
29 disclosure of communications that were intended to be
30 made in confidence between them. Specifies certain
31 proceedings in which the privilege may not be asserted.
Provides for a waiver of the privilege under certain
circumstances.