

Bill No. SB 90

Amendment No. 1 Barcode 170312

CHAMBER ACTION

Senate

House

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The Committee on Judiciary recommended the following amendment :
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Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

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

90.5045 Parent-child privilege.--

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

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

(3) As used in this section, the term "parent" means a

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1 woman who gives birth to a child or a man whose consent to the
 2 adoption of the child would be required under s. 63.062(1). If
 3 a child has been legally adopted, the term "parent" means the
 4 adoptive mother or father of the child. The term does not
 5 include an individual whose parental relationship to the child
 6 has been legally terminated and does not include an alleged or
 7 prospective parent, unless the parental status falls within
 8 the terms of s. 39.503(1) or s. 63.062(1).

9 (4) There is no privilege under this section:

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

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

14 (c) In a criminal proceeding in which the child is
 15 charged with a crime committed at any time against the person
 16 or property of the child's parent, or the person or property
 17 of any other child of the child's parent.

18 (d) In a criminal proceeding in which the child's
 19 parent is charged with a crime committed at any time against
 20 the person or property of the child, or the person or property
 21 of a child of the child.

22 (e) In any criminal or other governmental
 23 investigation involving allegations of sexual abuse, physical
 24 abuse, neglect, abandonment, or nonsupport of a child by a
 25 parent of that child.

26 (f) In any criminal or other governmental
 27 investigation involving allegations of sexual or physical
 28 abuse of a parent by a child of that parent.

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

31 (5) This privilege may be waived if either the parent

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1 or the child expressly consents to the disclosure of the
 2 communications. However, if the child has not reached majority
 3 or been otherwise emancipated, the child's stated consent is
 4 invalid or ineffective unless it is approved by a court of
 5 competent jurisdiction. The court may only approve such
 6 child's consent after appointing a guardian ad litem to
 7 represent the child and after the the guardian ad litem makes
 8 a recommendation to the court that the waiver of the privilege
 9 would be in the best interests of the child.

10 Section 2. This act shall take effect July 1, 2003.

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13 ===== T I T L E A M E N D M E N T =====

14 And the title is amended as follows:

15 Delete everything before the enacting clause

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17 and insert:

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A bill to be entitled

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An act relating to parent-child privilege;

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creating s. 90.5045, F.S.; creating a

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parent-child privilege to prevent disclosure of

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communications that were intended to be made in

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confidence; defining the term "parent";

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providing proceedings in which the privilege

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does not exist; providing for waiver of the

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privilege; requiring that a guardian ad litem

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be appointed to represent a minor child prior

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to the court approving a waiver of the

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privilege; providing an effective date.

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