



HB 0935

2003

1 A bill to be entitled

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

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Section 90.5045, Florida Statutes, is created
13 to read:

14 90.5045 Parent-child privilege.--

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

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

24 (3) For the purposes of this section, the term "parent"
25 means a woman who gives birth to a child and a man whose consent
26 to the adoption of the child would be required under s.
27 63.062(1). If a child has been legally adopted, the term
28 "parent" means the adoptive mother or father of the child. The
29 term does not include an individual whose parental relationship
30 to the child has been legally terminated, or an alleged or



HB 0935

2003

31 prospective parent, unless the parental status falls within the
32 terms of either s. 39.503(1) or s. 63.062(1).

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

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

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

38 (c) In a criminal proceeding in which the child is charged
39 with a crime committed at any time against the person or
40 property of the child's parent, or the person or property of any
41 other child of the child's parent.

42 (d) In a criminal proceeding in which the child's parent
43 is charged with a crime committed at any time against the person
44 or property of the child, or the person or property of a child
45 of the child.

46 (e) In any criminal or other governmental investigation
47 involving allegations of sexual abuse, physical abuse, neglect,
48 abandonment, or nonsupport of a child by a parent of that child.

49 (f) In any criminal or other governmental investigation
50 involving allegations of sexual or physical abuse of a parent by
51 a child of that parent.

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

54 (5) This privilege may be waived if either the parent or
55 the child expressly consent to the disclosure of the
56 communications. However, if the child has not reached majority
57 or been otherwise emancipated, the child's stated consent is
58 invalid or ineffective unless it is approved by a court of
59 competent jurisdiction. The court may only approve such child's
60 consent after appointing a guardian ad litem to represent such



HB 0935

2003

61 child and after the guardian ad litem makes a recommendation to
62 the court that the waiver of the privilege would be in the best
63 interests of the child.

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