



HB 0935

2003
CS

CHAMBER ACTION

The Committee on Judiciary recommends the following:

Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

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

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

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.



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

33 (3) For the purposes of this section, the term "parent"
34 means a woman who gives birth to a child and a man whose consent
35 to the adoption of the child would be required under s.
36 63.062(1). If a child has been legally adopted, the term
37 "parent" means the adoptive mother or father of the child. The
38 term does not include an individual whose parental relationship
39 to the child has been legally terminated, or an alleged or
40 prospective parent, unless the parental status falls within the
41 terms of either s. 39.503(1) or s. 63.062(1).

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

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

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

47 (c) In any criminal proceeding in which the child is
48 charged with a crime committed at any time against the person or
49 property of the child's parent, or the person or property of any
50 other child of the child's parent.

51 (d) In any criminal proceeding in which the child's parent
52 is charged with a crime committed at any time against the person
53 or property of the child, or the person or property of a child
54 of the child.



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

58 (f) In any criminal or other governmental investigation
59 involving allegations of sexual or physical abuse of a parent by
60 a child of that parent.

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

63 (h) In any criminal or civil proceeding in which the
64 communications are alleged to be made in furtherance of a
65 violation of or a conspiracy to violate the criminal laws of the
66 United States or the State of Florida.

67 (5) This privilege may be waived if either the parent or
68 the child expressly consent to the disclosure of the
69 communications. However, if the child has not reached majority
70 or been otherwise emancipated, the child's stated consent is
71 invalid or ineffective unless it is approved by a court of
72 competent jurisdiction. The court may only approve such child's
73 consent after appointing a guardian ad litem to represent such
74 child and after the guardian ad litem makes a recommendation to
75 the court that the waiver of the privilege would be in the best
76 interests of the child.

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