

1 A bill to be entitled
 2 An act relating to the parent-child privilege; creating s.
 3 90.5045, F.S.; creating a parent-child privilege to
 4 prevent disclosure of communications that were made by
 5 children younger than a specified age to their parents or
 6 by parents older than a specified age to their children
 7 and intended to be made in confidence; defining the term
 8 "parent"; prescribing proceedings in which the privilege
 9 does not exist; providing for waiver of the privilege;
 10 requiring that a guardian ad litem be appointed to
 11 represent a minor child prior to the court's approving the
 12 child's waiver of the privilege; providing an effective
 13 date.

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

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

19 90.5045 Parent-child privilege.--

20 (1) Because of the family relationship that exists between
 21 parents and their children, there is a privilege to refuse to
 22 disclose, and to prevent another from disclosing, communications
 23 that were intended to be made in confidence between:

24 (a) A child who at the time of making the communication
 25 was 25 years of age or younger and that child's parent.

26 (b) A parent who at the time of making the communication
 27 was 65 years of age or older and that parent's child.

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

55 (e) In any criminal or other governmental investigation
 56 involving allegations of abuse, neglect, abandonment, or

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57 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 the Florida Juvenile Rules of Procedure.

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

73 Section 2. This act shall take effect July 1, 2005.