

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 to their parents or by parents to their children
 6 and intended to be made in confidence; defining the term
 7 "parent"; prescribing proceedings in which the privilege
 8 does not exist; providing for waiver of the privilege;
 9 requiring that a guardian ad litem be appointed to
 10 represent a minor child prior to the court's approving the
 11 child's waiver of the privilege; providing an effective
 12 date.

13

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

15

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

18 90.5045 Parent-child privilege.--

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

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

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

29 woman who gives birth to a child or a man whose consent to the
30 adoption of the child would be required under s. 63.062(1). If a
31 child has been legally adopted, the term "parent" means the
32 adoptive mother or father of the child. The term does not
33 include an individual whose parental relationship to the child
34 has been legally terminated and does not include an alleged or
35 prospective parent, unless the parental status falls within the
36 terms of s. 39.503(1) or s. 63.062(1).

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

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

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

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

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

50 (e) In any criminal or other governmental investigation
51 involving allegations of abuse, neglect, abandonment, or
52 nonsupport of a child by a parent of that child.

53 (f) In any criminal or other governmental investigation
54 involving allegations of sexual or physical abuse of a parent by
55 a child of that parent.

56 (g) In any proceeding governed by the Florida Family Law

CS/HB 167

2007

57 Rules of Procedure or the Florida Rules of Juvenile Procedure.
58 (5) This privilege may be waived if either the parent or
59 the child expressly consents to the disclosure of the
60 communication. However, if the child has not reached the age of
61 majority or been otherwise emancipated, the child's stated
62 consent is invalid or ineffective unless it is approved by a
63 court of competent jurisdiction. The court may approve such
64 child's consent only after appointing a guardian ad litem to
65 represent the child and after the guardian ad litem makes a
66 recommendation to the court that the waiver of the privilege
67 would be in the best interests of the child.
68 Section 2. This act shall take effect July 1, 2007.