

By Senator Thrasher

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1 A bill to be entitled
2 An act relating to the lawyer-client privilege;
3 creating s. 90.5021, F.S.; providing that a client
4 acts as a fiduciary when serving as a personal
5 representative, a trustee, an administrator ad litem,
6 a curator, a guardian or guardian ad litem, a
7 conservator, or an attorney in fact; providing that a
8 communication between a lawyer and a client acting as
9 a fiduciary is privileged and protected from
10 disclosure to the same extent as if the client were
11 not acting as a fiduciary; providing that the act does
12 not affect the crime or fraud exception to the lawyer-
13 client privilege; providing an effective 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 90.5021, Florida Statutes, is created to
18 read:

19 90.5021 Fiduciary lawyer-client privilege.-

20 (1) For the purpose of this section, a client acts as a
21 fiduciary when serving as a personal representative or a trustee
22 as defined in ss. 731.201 and 736.0103, an administrator ad
23 litem as described in s. 733.308, a curator as described in s.
24 733.501, a guardian or guardian ad litem as defined in s.
25 744.102, a conservator as defined in s. 710.102, or an attorney
26 in fact as described in chapter 709.

27 (2) A communication between a lawyer and a client acting as
28 a fiduciary is privileged and protected from disclosure under s.
29 90.502 to the same extent as if the client were not acting as a

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30 fiduciary. When applying s. 90.502 to a communication under this
31 section, only the person or entity acting as a fiduciary is
32 considered a client of the lawyer.

33 (3) This section does not affect the exception to the
34 lawyer-client privilege for crime or fraud as set forth in s.
35 90.502(4).

36 Section 2. This act shall take effect July 1, 2011.