

## Committee Substitute for Senate Bill No. 1766

An act relating to child and adult abuse; providing a short title; requiring hospitals, birthing facilities, or home birth providers to give to new parents informational brochures concerning the dangers of shaking babies and young children; requiring the Department of Health to prepare the brochures; prescribing the contents of the brochures; providing that a cause of action against specified persons and entities does not accrue as a result of failure to give this information; amending ss. 39.204 and 415.1045, F.S.; providing applicability of failure to cooperate with law enforcement with respect to investigation of or privileged communications regarding child or adult abuse; providing an effective date.

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

Section 1. This act may be cited as the “Kimberlin West Act of 2002.”

Section 2. Dangers of shaking infants and young children; requirements for distributing brochures.—

(1) Every hospital, birthing facility, and provider of home birth which has maternity and newborn services shall provide to the parents of a newborn, before they take their newborn home from the hospital or birthing facility, written information with an explanation concerning the dangers of shaking infants and young children.

(2) The Department of Health shall prepare a brochure that describes the dangers of shaking infants and young children. The description must include information concerning the grave effects of shaking infants and young children, information concerning appropriate ways to manage the causes that can lead a person to shake infants and young children, and a discussion of ways to reduce the risks that can lead a person to shake infants and young children.

(3) This section does not preclude a hospital, birthing facility, or a home birth provider from providing the notice required under this section as an addendum to, or in connection with, any other required information.

(4) A cause of action does not accrue against the state or any subdivision or agency thereof or any hospital birthing facility or home-birth provider for failure to give or receive the information required under this section.

Section 3. Section 39.204, Florida Statutes, is amended to read:

39.204 Abrogation of privileged communications in cases involving child abuse, abandonment, or neglect.—The privileged quality of communication between husband and wife and between any professional person and his or her patient or client, and any other privileged communication except that between attorney and client or the privilege provided in s. 90.505, as such communication relates both to the competency of the witness and to the

exclusion of confidential communications, shall not apply to any communication involving the perpetrator or alleged perpetrator in any situation involving known or suspected child abuse, abandonment, or neglect and shall not constitute grounds for failure to report as required by s. 39.201 regardless of the source of the information requiring the report, failure to cooperate with law enforcement or the department in its activities pursuant to this chapter, or failure to give evidence in any judicial proceeding relating to child abuse, abandonment, or neglect.

Section 4. Subsections (3) and (5) of section 415.1045, Florida Statutes, are amended to read:

415.1045 Photographs, videotapes, and medical examinations; abrogation of privileged communications; confidential records and documents.—

(3) **ABROGATION OF PRIVILEGED COMMUNICATIONS.**—The privileged quality of communication between husband and wife and between any professional and the professional's patient or client, and any other privileged communication except that between attorney and client or clergy and person, as such communication relates to both the competency of the witness and to the exclusion of confidential communications, does not apply to any situation involving known or suspected abuse, neglect, or exploitation of a vulnerable adult and does not constitute grounds for failure to report as required by s. 415.1034, for failure to cooperate with law enforcement or the department in its activities under ss. 415.101-415.113, or for failure to give evidence in any judicial or administrative proceeding relating to abuse, neglect, or exploitation of a vulnerable adult.

(5) **ACCESS TO RECORDS AND DOCUMENTS.**—If any person refuses to allow a law enforcement officer or the protective investigator to have access to, inspect, or copy any medical, social, or financial record or document in the possession of any person, caregiver, guardian, or facility which is relevant to the allegations under investigation, the department may petition the court for an order requiring the person to allow access to the record or document. The petition must allege specific facts sufficient to show that the record or document is relevant to the allegations under investigation and that the person refuses to allow access to such record or document. If the court finds by a preponderance of the evidence that the record or document is relevant to the allegations under investigation, the court may order the person to allow access to and permit the inspection or copying of the medical, social, or financial record or document.

Section 5. This act shall take effect upon becoming a law.

Approved by the Governor April 24, 2002.

Filed in Office Secretary of State April 24, 2002.