

1 A bill to be entitled
2 An act relating to child and adult abuse;
3 requiring hospitals, birthing facilities, or
4 home birth providers to give to new parents
5 informational brochures concerning the dangers
6 of shaking babies and young children; requiring
7 the Department of Health to prepare the
8 brochures; prescribing the contents of the
9 brochures; providing that a cause of action
10 against specified persons and entities does not
11 accrue as a result of failure to give this
12 information; amending ss. 39.204 and 415.1045,
13 F.S.; providing applicability of failure to
14 cooperate with law enforcement with respect to
15 investigation of or privileged communications
16 regarding child or adult abuse; providing an
17 effective date.

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

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21 Section 1. This act may be cited as the "Kimberlin
22 West Act of 2002."

23 Section 2. Dangers of shaking infants and young
24 children; requirements for distributing brochures.--

25 (1) Every hospital, birthing facility, and provider of
26 home birth that has maternity and newborn services shall
27 provide to the parents of a newborn, before they take their
28 newborn home from the hospital, or birthing facility, written
29 information with an explanation concerning the dangers of
30 shaking infants and young children. Brochures shall also be
31 provided to infant child care providers.

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

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

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

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

19 39.204 Abrogation of privileged communications in
20 cases involving child abuse, abandonment, or neglect.--The
21 privileged quality of communication between husband and wife
22 and between any professional person and his or her patient or
23 client, and any other privileged communication except that
24 between attorney and client or the privilege provided in s.
25 90.505, as such communication relates both to the competency
26 of the witness and to the exclusion of confidential
27 communications, shall not apply to any communication involving
28 the perpetrator or alleged perpetrator in any situation
29 involving known or suspected child abuse, abandonment, or
30 neglect and shall not constitute grounds for failure to report
31 as required by s. 39.201 regardless of the source of the

1 information requiring the report, failure to cooperate with
2 law enforcement or the department in its activities pursuant
3 to this chapter, or failure to give evidence in any judicial
4 proceeding relating to child abuse, abandonment, or neglect.

5 Section 4. Subsections (3) and (5) of section
6 415.1045, Florida Statutes, are amended to read:

7 415.1045 Photographs, videotapes, and medical
8 examinations; abrogation of privileged communications;
9 confidential records and documents.--

10 (3) ABROGATION OF PRIVILEGED COMMUNICATIONS.--The
11 privileged quality of communication between husband and wife
12 and between any professional and the professional's patient or
13 client, and any other privileged communication except that
14 between attorney and client or clergy and person, as such
15 communication relates to both the competency of the witness
16 and to the exclusion of confidential communications, does not
17 apply to any situation involving known or suspected abuse,
18 neglect, or exploitation of a vulnerable adult and does not
19 constitute grounds for failure to report as required by s.
20 415.1034, for failure to cooperate with law enforcement or the
21 department in its activities under ss. 415.101-415.113, or for
22 failure to give evidence in any judicial or administrative
23 proceeding relating to abuse, neglect, or exploitation of a
24 vulnerable adult.

25 (5) ACCESS TO RECORDS AND DOCUMENTS.--If any person
26 refuses to allow a law enforcement officer or the protective
27 investigator to have access to, inspect, or copy any medical,
28 social, or financial record or document in the possession of
29 any person, caregiver, guardian, or facility which is relevant
30 to the allegations under investigation, the department may
31 petition the court for an order requiring the person to allow

1 access to the record or document. The petition must allege
2 specific facts sufficient to show that the record or document
3 is relevant to the allegations under investigation and that
4 the person refuses to allow access to such record or document.
5 If the court finds by a preponderance of the evidence that the
6 record or document is relevant to the allegations under
7 investigation, the court may order the person to allow access
8 to and permit the inspection or copying of the medical,
9 social, or financial record or document.

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

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