

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1766

SPONSOR: Health, Aging and Long-Term Committee and Senator Sullivan

SUBJECT: Shaken-Baby Syndrome

DATE: February 20, 2002 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Munroe	Wilson	HC	Favorable/CS
2.	_____	_____	AHS	_____
3.	_____	_____	AP	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

The bill requires every hospital that provides maternity and newborn services and every birth center to provide parents of a newborn, before they take their newborn home from the hospital or birth center, information concerning the dangers of shaking infants and young children. The Department of Health must prepare a brochure that describes the dangers of shaking infants and young children and other specified information. The state or any hospital or any birth center is not civilly liable for failure to give or receive the information required under the bill. Any hospital or birth center that continues to violate the requirements under the bill to provide specified information concerning the dangers of shaking infants and young children, after receiving a written notice that a violation has occurred and after having been given an opportunity to be heard, is subject to a civil penalty in an amount no greater than \$500.

This bill creates one undesignated section of law.

## II. Present Situation:

### Shaken-Baby Syndrome

According to materials available from the National Center on Shaken Baby Syndrome, "Shaken-Baby Syndrome" describes a range of signs and symptoms resulting from violent shaking and impacting of the head of an infant or young child.<sup>1</sup> The resulting brain trauma depends on the duration and the amount of the shaking and other forces to the head of the infant. The signs of the syndrome may range on a spectrum of neurological problems such as irritability, lethargy, tremors, vomiting, seizures, coma, stupor, and death, which are due in part to the destruction of brain cells and swelling of the brain as a result of the trauma inflicted on the child.

<sup>1</sup> National Center on Shaken Baby Syndrome at <http://www.dontshake.com>

According to the Centers for Disease Control and Prevention, child battering, including shaken-baby syndrome, accounted for the second largest number of postnatally acquired developmental disabilities and a high average number of developmental disabilities for each affected child. The reported number of child battering cases is probably an underestimate because of the inability of the medical delivery system to identify all cases of abuse. Experts note that there is not an established method of collecting the known incidence of shaken-baby syndrome, but estimate that the range of incidence of shaken-baby syndrome is 600 to 1400 cases annually in the United States.

Shaken-baby syndrome is preventable and experts note that shaking occurs frequently when a frustrated care giver loses control with a crying infant or child. Support and information regarding child care and techniques on stress management with care givers may prevent child abuse, including trauma caused by shaken-baby syndrome.

### **Florida Patient's Bill of Rights and Responsibilities**

Section 381.026, F.S., establishes the Florida Patient's Bill of Rights and Responsibilities. The section specifies rights of patients relating to individual dignity, provision of information, financial information and disclosure, access to health care, and experimental research. Under the section, patients have the right to impartial access to medical treatment or accommodations, regardless of race, national origin, religion, physical handicap, or source of payment. Any licensed medical physician, osteopathic physician, or podiatric physician who treats a patient in an office or any hospital or ambulatory surgical center that provides emergency services and care or outpatient services and care to a patient, or admits and treats a patient must adopt and make available to the patient, in writing, a statement of the rights and responsibilities of patients.

Section 381.0261, F.S., requires health care providers and health care facilities to provide patients with information, if requested, about state agencies responsible for responding to patient complaints about alleged provider or facility noncompliance with licensure requirements. Health care providers and health care facilities must adopt policies and procedures that ensure inpatients are provided the opportunity, during their hospital stay, to be informed of their rights and how to file a complaint with the facility and the appropriate state regulatory agency. The Agency for Health Care Administration may levy an administrative fine against a health care facility of up to \$5,000 for nonwillful violations of the requirement to make available to patients a summary of their rights, and an administrative fine of up to \$25,000 for intentional and willful violations, with each intentional and willful violation constituting a separate offense. The appropriate regulatory board, or the Department of Health if there is no board, may levy an administrative fine against a health care provider of up to \$100 for nonwillful violations of the requirement to make available to patients a summary of their rights, and an administrative fine of up to \$500 for willful violations and each intentional and willful violation constitutes a separate violation that is subject to a separate fine. In determining the amount of the fine to be levied the Agency for Health Care Administration, Department of Health or the appropriate regulatory board must consider certain factors, which include the scope and severity of the violation, corrective actions taken, and any previous violation of the requirements of s. 381.0261, F.S.

### **III. Effect of Proposed Changes:**

The bill requires every hospital that provides maternity and newborn services and every birth center to provide parents of a newborn, before they take their newborn home from the hospital or birth center, information concerning the dangers of shaking infants and young children. The Department of Health must 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. The description must also include 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.

A hospital or birth center is not precluded from providing the bill's required notice to parents as part of or in connection with any other required information. The state or any hospital or any birth center is not civilly liable for failure to give or receive the information required under the bill. Any hospital or birth center that continues to violate the requirements under the bill to provide specified information concerning the dangers of shaking infants and young children, after receiving a written notice that a violation has occurred and after having been given an opportunity to be heard, is subject to a civil penalty in an amount no greater than \$500.

The bill takes effect upon becoming a law.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

The provisions of this bill have no impact on municipalities and the counties under the requirements of Art. VII, s. 18 of the Florida Constitution.

#### **B. Public Records/Open Meetings Issues:**

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Art. I, s. 24(a) and (b) of the Florida Constitution.

#### **C. Trust Funds Restrictions:**

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Art. III, s. 19(f) of the Florida Constitution.

### **V. Economic Impact and Fiscal Note:**

#### **A. Tax/Fee Issues:**

None.

#### **B. Private Sector Impact:**

If the bill is implemented, more parents of newborns may become informed about the dangers of shaking an infant or young child, and be given alternatives on coping with

stress that may lead to a reduced incidence of child abuse resulting from shaken-baby syndrome.

**C. Government Sector Impact:**

The Department of Health estimates that it will incur start-up costs equal to \$36,600 to implement the bill's requirements to contract for brochure text development and purchase photos for the initial brochure production that would include an initial and annual reprinting of brochures in the following languages: English, Spanish, and Creole. The department has indicated that it will have recurring costs equal to \$35,200.

The department's estimate of costs to implement the bill is based on its distribution of a similar brochure to parents of newborns statewide.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

On page 2, lines 7-11, the bill authorizes the Department of Health to impose a civil penalty no greater than \$500 on any hospital that continues to violate the requirement to distribute the required notice to parents of newborns concerning the dangers of shaking infants and young children in the bill, after the hospital has received written notice of the violation and after the hospital has been given an opportunity to be heard. Under the Administrative Procedure Act, if the Department of Health seeks to impose civil penalties, the hospital has the right to seek an administrative hearing to challenge that agency action.

**VIII. Amendments:**

None.