

STORAGE NAME: h1983.cfe

DATE: April 14, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
CHILDREN AND FAMILY EMPOWERMENT
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: HB 1983 (PCB CFE 97-03)

RELATING TO: Human Rights Advocacy Committee

SPONSOR(S): Committee on Children and Family Empowerment and Representative Brennan

STATUTE(S) AFFECTED: This bill amends the following sections of the Florida Statutes:
402.164, 402.165, 402.166, and 402.167.

COMPANION BILL(S): SB 790 [Similar]

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) CHILDREN AND FAMILY EMPOWERMENT YEAS 7 NAYS 0
- (2)
- (3)
- (4)
- (5)

I. SUMMARY:

The bill expands the authority of the Statewide Human Rights Advocacy Committee to serve as an independent third-party mechanism to protect the constitutional and human rights of any client within a program or facility operated, funded, licensed, or regulated by the Department of Children and Family Services, the Department of Health, the Department of Elderly Affairs, and the Agency for Health Care Administration.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The Statewide Human Rights Advocacy Committee is responsible for serving as an independent third-party mechanism to protect the constitutional and human rights of any client within a program or facility operated, funded, licensed, or regulated by the Department of Children and Family Services. This is accomplished by monitoring, through a site visit and the inspection of records, the delivery and use of services, programs, or facilities operated, funded, regulated or licensed by the Department of Children and Family Services (department). Further, the statewide committee receives, investigates, and resolves reports of abuse or deprivation of constitutional and human rights that have been referred by the district committees. The statewide committee also reviews existing programs or services and new or revised programs of the department and makes recommendations as to how the rights of clients are affected relative to these programs or services. Although the department is responsible for providing administrative support to the committee, the committee is not subject to control, supervision or direction by the department in the performance of its duties.

The Statewide and District Human Rights Advocacy Committees were created in 1975 by the Legislature to provide oversight over program or facility operated, funded, licensed, or operated by the Department of Health and Rehabilitative Services." After a "Sunset review" in 1989, the law governing the Statewide Human Rights Advocacy Committee was reinstated by the Legislature. In the early 1990's the Legislature started divesting the Department of Health and Rehabilitative Services of several programs by creating the Department of Elderly Affairs, the Department of Juvenile Justice, the Agency for Health Care Administration and the Department of Health. In addition, the Legislature moved certain program functions to other agencies such as Child Support Enforcement to the Department of Revenue.

The committees have no authority to direct state agencies, but rather to influence them into providing better services to the consumers they serve and to prevent problems from recurring.

The Statewide Human Rights Advocacy Committee has entered into Memorandum of Agreement with the Agency for Health Care Administration and the Department of Health which allow the committees to continue to function as they did prior to their divestiture from HRS. The Statewide Human Rights Advocacy Committee is seeking to restore their oversight authority over the Department of Elderly Affairs and the Department of Juvenile Justice to once again serve the client population in these agencies.

B. EFFECT OF PROPOSED CHANGES:

This bill allows more clients and citizens to access an independent third-party mechanism which is charged to protect their constitutional and human rights and to resolve issues and concerns which relate to the services they receive.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. *Does the bill create, increase or reduce, either directly or indirectly:*

i. *Any authority to make rules or adjudicate disputes?*

The bill provides rulemaking authority for the state agencies that are subject to investigation by the Statewide Human Rights Advocacy Committee and the 15 district committees.

ii. *Any new responsibilities, obligations or work for other governmental or private organizations or individuals?*

The Statewide Human Rights Advocacy Committee is responsible for serving as an independent third-party mechanism to protect the constitutional and human rights of any client within a program or facility operated, funded, licensed, or regulated by the Department of Children and Family Services. The bill expands the authority of the Statewide Human Rights Advocacy Committee to serve as an independent third-party mechanism to protect the constitutional and human rights of any client within a program or facility operated, funded, licensed, or regulated by the Department of Children and Family Services, the Department of Health, the Department of Elderly Affairs, and the Agency for Health Care Administration.

iii. *Any entitlement to a government service or benefit?*

No

b. *If an agency or program is eliminated or reduced:*

i. *What responsibilities, costs and powers are passed on to another program, agency, level or government, or private entity?*

N/A

ii. *What is the cost of such responsibility at the new level/agency?*

N/A

iii. *How is the new agency accountable to the people governed?*

N/A

2. Lower Taxes:

a. *Does the bill increase anyone's taxes?*

No

b. *Does the bill require or authorize an increase in any fees?*

No

c. *Does the bill reduce total taxes, both rates and revenues?*

No

d. *Does the bill reduce total fees, both rates and revenues?*

No

e. *Does the bill authorize any fee or tax increase by any local government?*

No

3. Personal Responsibility:

a. *Does the bill reduce or eliminate an entitlement to government services or subsidy?*

No

b. *Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?*

No

4. Individual Freedom:

a. *Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?*

The bill provides a mechanism for clients and citizens to access an independent third-party which is charged to protect their constitutional and human rights to resolve issues and concerns which relate to the services they receive from government agencies.

b. *Does the bill prohibit, or create new government interference with, any presently lawful activity?*

No

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

l. *Who evaluates the family's needs?*

N/A

ii. *Who makes the decisions?*

N/A

iii. *Are private alternatives permitted?*

N/A

iv. *Are families required to participate in a program?*

N/A

v. *Are families penalized for not participating in a program?*

N/A

b. *Does the bill directly affect the legal rights and obligations between family members?*

No

c. *If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:*

i. *Parents and guardians?*

N/A

ii. *Services providers?*

N/A

iii. *Government employees/agencies?*

N/A

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Creates s. 402.164, Florida Statutes

This section provides legislative intent regarding the Statewide Human Rights Advocacy Committee.

Defines the term "state agencies" to mean the Department of Children and Family Services, the Department of Health, the Department of Elderly Affairs, and the Agency for Health Care Administration.

Section 2. Amends s. 402.165, Florida Statutes, 1996 Supplement

This section expands the authority of the Statewide Human Rights Advocacy Committee to serve as an independent third-party mechanism to protect the constitutional and human rights of any client within a program or facility operated, funded, licensed, or regulated by the Department of Children and Family Services, the Department of Health, the Department of Elderly Affairs, and the Agency for Health Care Administration.

Section 3. Amends s. 402.166, Florida Statutes, 1996 Supplement

This section makes technical and conforming changes to reflect the Human Rights Advocacy Committee expanded oversight authority over the Department of Children and Family Services, the Department of Health, the Department of Elderly Affairs, and the Agency for Health Care Administration.

Section 4. Amends s. 402.167, Florida Statutes, 1996 Supplement

This section provides rulemaking authority for the state agencies that are subject to investigation by the Statewide Human Rights Advocacy Committee and the 15 district committees.

Section 5. Provides an effective date of July 1, 1997.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None

2. Recurring Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

4. Total Revenues and Expenditures:

See Fiscal Comment

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

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1. Non-recurring Effects:

None

2. Recurring Effects:

None

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None

2. Direct Private Sector Benefits:

None

3. Effects on Competition, Private Enterprise and Employment Markets:

None

D. FISCAL COMMENTS:

The Statewide Human Rights Advocacy Committee has not requested additional funds and has indicated that the committee anticipates using current resources for costs associated with this bill.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

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V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON CHILDREN AND FAMILY EMPOWERMENT:

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