

By the Committee on Children & Family Empowerment and
Representative Brennan

1 A bill to be entitled
2 An act relating to human rights; creating s.
3 402.164, F.S.; providing legislative intent
4 with respect to the duties and powers of the
5 Statewide Human Rights Advocacy Committee and
6 the district human rights advocacy committees;
7 defining the term "state agencies" for purposes
8 of ss. 402.164-402.167, F.S.; providing for the
9 Statewide Human Rights Advocacy Committee to
10 monitor the activities of, and investigate
11 complaints against, the Department of Children
12 and Family Services, the Department of Health,
13 the Department of Elderly Affairs, and the
14 Agency for Health Care Administration; amending
15 s. 402.166, F.S.; revising the duties of the
16 district human rights advocacy committees to
17 conform to the expanded duties of the statewide
18 committee; amending s. 402.167, F.S.; providing
19 rulemaking authority to the state agencies
20 subject to investigation by the human rights
21 advocacy committees; providing an effective
22 date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Section 402.164, Florida Statutes, is
27 created to read:

28 402.164 Legislative intent; definition.--

29 (1)(a) It is the intent of the Legislature to use
30 citizen volunteers as members of the Statewide Human Rights
31 Advocacy Committee and the district human rights advocacy

1 committees, and to have volunteers operate a network of
2 committees that shall, without interference by an executive
3 agency, undertake to discover, monitor, investigate, and
4 determine the presence of conditions or individuals that
5 constitute a threat to the rights, health, safety, or welfare
6 of persons who receive services from state agencies.

7 (b) To ensure that the effectiveness and efficiency of
8 monitoring and investigations are not impeded by advance
9 notice or delay, the Legislature intends that the committees
10 not be required to obtain warrants in order to enter into or
11 conduct administrative inspections of facilities that are
12 operated, contracted, licensed, or funded by the state
13 agencies defined in subsection (2). It is the further intent
14 of the Legislature that the monitoring and investigation shall
15 safeguard the health, safety, and welfare of consumers of
16 services provided by these state agencies.

17 (2) As used in ss. 402.164-402.167, the term "state
18 agencies" means the Department of Children and Family
19 Services, the Department of Health, the Department of Elderly
20 Affairs, and the Agency for Health Care Administration.

21 Section 2. Section 402.165, Florida Statutes, 1996
22 Supplement, is amended to read:

23 402.165 Statewide Human Rights Advocacy Committee;
24 confidential records and meetings.--

25 (1) There is created within the Department of Children
26 and Family ~~Health and Rehabilitative~~ Services a Statewide
27 Human Rights Advocacy Committee. The Department of Children
28 and Family ~~Health and Rehabilitative~~ Services shall provide
29 administrative support and service to the committee to the
30 extent requested by the executive director within available
31 resources. The Statewide Human Rights Advocacy Committee is

1 ~~shall not be~~ subject to control, supervision, or direction by
2 the Department of Children and Family Health and
3 ~~Rehabilitative~~ Services in the performance of its duties. The
4 committee shall consist of 15 citizens, one from each service
5 district of the Department of Children and Family Health and
6 ~~Rehabilitative~~ Services, who broadly represent the interests
7 of the public and the clients of one or more of the state
8 agencies that department. The members shall be representative
9 of five groups of citizens as follows: one elected public
10 official; two providers who deliver services or programs to
11 clients of one or more of the state agencies the Department of
12 ~~Health and Rehabilitative Services~~; four nonsalaried
13 representatives of nonprofit agencies or civic groups; four
14 representatives of health and rehabilitative services consumer
15 groups who are currently receiving, or have received, services
16 from one or more of the state agencies the Department of
17 ~~Health and Rehabilitative Services~~ within the past 4 years, at
18 least one of whom must be a consumer of services provided by
19 one or more of the state agencies; and four residents of the
20 state who do not represent any of the foregoing groups, two of
21 whom represent health-related professions and two of whom
22 represent the legal profession. In appointing the
23 representatives of the health-related professions, the
24 appointing authority shall give priority of consideration to a
25 physician licensed under chapter 458 or chapter 459; and, in
26 appointing the representatives of the legal profession, the
27 appointing authority shall give priority of consideration to a
28 member in good standing of The Florida Bar. Except for the
29 member who is an elected public official, each member of the
30 Statewide Human Rights Advocacy Committee must have served as
31 a member of a district human rights advocacy committee.

1 Persons related to each other by consanguinity or affinity
2 within the third degree may not serve on the Statewide Human
3 Rights Advocacy Committee at the same time.

4 (2) Members of the Statewide Human Rights Advocacy
5 Committee shall be appointed to serve terms of 3 years. A
6 member may not serve more than two consecutive terms. The
7 limitation on the number of terms a member may serve applies
8 without regard to whether a term was served before or after
9 October 1, 1989.

10 (3) If a member of the Statewide Human Rights Advocacy
11 Committee fails to attend two-thirds of the regular committee
12 meetings during the course of a year, the position held by
13 such member may be deemed vacant by the committee. The
14 Governor shall fill the vacancy pursuant to subsection (4). If
15 a member of the Statewide Human Rights Advocacy Committee
16 violates ~~is in violation of the provisions of~~ this section or
17 procedures adopted under this section ~~thereto~~, the committee
18 may recommend to the Governor that such member be removed.

19 (4) The Governor shall fill each vacancy on the
20 Statewide Human Rights Advocacy Committee from a list of
21 nominees submitted by the statewide committee. A list of
22 candidates shall be submitted to the statewide committee by
23 the district human rights advocacy committee in the district
24 from which the vacancy occurs. Priority of consideration
25 shall be given to the appointment of an individual whose
26 primary interest, experience, or expertise lies with a major
27 client group of a service provided by any of the state
28 agencies, which group is ~~the Department of Health and~~
29 ~~Rehabilitative Services~~ not represented on the committee at
30 the time of the appointment. If an appointment is not made
31 within 60 days after a vacancy occurs on the committee, the

1 vacancy shall be filled by a majority vote of the statewide
2 committee without further action by the Governor. A ~~No~~ person
3 who is employed by any of the state agencies that provide
4 services to clients ~~the Department of Health and~~
5 ~~Rehabilitative Services~~ may not be appointed to the committee.
6 (5)(a) Members of the Statewide Human Rights Advocacy
7 Committee shall receive no compensation, but are ~~shall be~~
8 entitled to be reimbursed for per diem and travel expenses in
9 accordance with s. 112.061.
10 (b) The committee shall select an executive director
11 who shall serve at the pleasure of the committee and shall
12 perform the duties delegated to him or her by the committee.
13 The compensation of the executive director shall be
14 established in accordance with the rules of the Selected
15 Exempt Service.
16 (c) The committee may apply for, receive, and accept
17 grants, gifts, donations, bequests, and other payments
18 including money or property, real or personal, tangible or
19 intangible, and service from any governmental or other public
20 or private entity or person and make arrangements as to the
21 use of same.
22 (d) The Statewide Human Rights Advocacy Committee
23 shall annually prepare a budget request that may ~~shall~~ not be
24 changed ~~subject to change~~ by department staff after it is
25 approved by the committee, but the budget request shall be
26 submitted to the Governor ~~by the department~~ for transmittal to
27 the Legislature. The budget must ~~shall~~ include a request for
28 funds to carry out the activities of the Statewide Human
29 Rights Advocacy Committee and the district human rights
30 advocacy committees.
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1 (6) The members of the Statewide Human Rights Advocacy
2 Committee shall elect a chairperson to a term of 1 year. A
3 person may not serve as chairperson for more than two
4 consecutive terms.

5 (7) The responsibilities of the committee include, but
6 are not limited to:

7 (a) Serving as an independent third-party mechanism
8 for protecting the constitutional and human rights of clients
9 ~~any client~~ within programs ~~a program~~ or facilities ~~facility~~
10 operated, funded, licensed, or regulated by any of the state
11 agencies ~~the Department of Health and Rehabilitative Services~~.

12 (b) Monitoring by site visit and inspection of
13 records, the delivery and use of services, programs, or
14 facilities operated, funded, regulated, or licensed by any of
15 the state agencies ~~the Department of Health and Rehabilitative~~
16 ~~Services~~ for the purpose of preventing abuse or deprivation of
17 the constitutional and human rights of clients. The Statewide
18 Human Rights Advocacy Committee may conduct an unannounced
19 site visit or monitoring visit that involves the inspection of
20 records if such visit is conditioned upon a complaint. A
21 complaint may be generated by the committee itself if
22 information from any of the state agencies ~~the Department of~~
23 ~~Health and Rehabilitative Services~~ or other sources indicates
24 a situation at the program or facility that indicates possible
25 abuse or neglect of clients. The Statewide Human Rights
26 Advocacy Committee shall establish and follow uniform criteria
27 for the review of information and generation of complaints.
28 Routine program monitoring and reviews that do not require an
29 examination of records may be made unannounced.

30 (c) Receiving, investigating, and resolving reports of
31 abuse or deprivation of constitutional and human rights

1 referred to the Statewide Human Rights Advocacy Committee by a
2 district human rights advocacy committee. If a matter
3 constitutes a threat to the life, safety, or health of clients
4 or is multidistrict in scope, the Statewide Human Rights
5 Advocacy Committee may exercise such powers without the
6 necessity of a referral from a district committee.

7 (d) Reviewing existing programs or services and new or
8 revised programs of the state agencies ~~Department of Health~~
9 ~~and Rehabilitative Services~~ and making recommendations as to
10 how the rights of clients are affected.

11 (e) Submitting an annual report to the Legislature, no
12 later than December 30 of each calendar year, concerning
13 activities, recommendations, and complaints reviewed or
14 developed by the committee during the year.

15 (f) Conducting meetings at least six times a year at
16 the call of the chairperson and at other times at the call of
17 the Governor or by written request of six members of the
18 committee.

19 (g) Developing and adopting uniform procedures to be
20 used to carry out the purpose and responsibilities of the
21 human rights advocacy committees, which procedures must ~~shall~~
22 include, but need not be limited to, the following:

23 1. The responsibilities of the committee;

24 2. The organization and operation of the statewide
25 committee and district committees, including procedures for
26 replacing a member, formats for maintaining records of
27 committee activities, and criteria for determining what
28 constitutes a conflict of interest for purposes of assigning
29 and conducting investigations and monitoring;

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1 3. Uniform procedures for the statewide committee and
2 district committees to receive and investigate reports of
3 abuse of constitutional or human rights;

4 4. The responsibilities and relationship of the
5 district human rights advocacy committees to the statewide
6 committee;

7 5. The relationship of the committee to the state
8 agencies that receive, investigate, and report abuse and
9 neglect of children or adults ~~Department of Health and~~
10 ~~Rehabilitative Services~~, including the way in which reports of
11 findings and recommendations related to reported abuse are
12 given to the appropriate state agency ~~Department of Health and~~
13 ~~Rehabilitative Services~~;

14 6. Provision for cooperation with the State Long-Term
15 Care Ombudsman Council;

16 7. Procedures for appeal. An appeal to the state
17 committee is made by a district human rights advocacy
18 committee when a valid complaint is not resolved at the
19 district level. The statewide committee may appeal an
20 unresolved complaint to the secretary or director of the
21 appropriate state agency ~~Department of Health and~~
22 ~~Rehabilitative Services~~. If, after exhausting all remedies,
23 the statewide committee is not satisfied that the complaint
24 can be resolved within the state agency ~~Department of Health~~
25 ~~and Rehabilitative Services~~, the appeal may be referred to the
26 Governor or the Legislature;

27 8. Uniform procedures for gaining access to and
28 maintaining confidential information; and

29 9. Definitions of misfeasance and malfeasance for
30 members of the statewide committee and district committees.

31

1 (h) Monitoring the performance and activities of all
2 district committees and providing technical assistance to
3 members and staff of district committees.

4 (i) Providing for the development and presentation of
5 a standardized training program for members of district
6 committees.

7 (8)(a) In the performance of its duties, the Statewide
8 Human Rights Advocacy Committee shall have:

9 1. Authority to receive, investigate, seek to
10 conciliate, hold hearings on, and act on complaints that ~~which~~
11 allege any abuse or deprivation of constitutional or human
12 rights of clients.

13 2. Access to all client records, files, and reports
14 from any program, service, or facility that is operated,
15 funded, licensed, or regulated by any of the state agencies
16 ~~the Department of Health and Rehabilitative Services~~ and any
17 records that ~~which~~ are material to its investigation and ~~which~~
18 ~~are~~ in the custody of any other agency or department of
19 government. The committee's investigation or monitoring may
20 ~~shall~~ not impede or obstruct matters under investigation by
21 law enforcement or judicial authorities. Access may ~~shall~~ not
22 be granted if a specific procedure or prohibition for
23 reviewing records is required by federal law and regulation
24 that ~~which~~ supersedes state law. Access may ~~shall~~ not be
25 granted to the records of a private licensed practitioner who
26 is providing services outside the state agencies, or outside a
27 state facility, and facilities and whose client is competent
28 and refuses disclosure.

29 3. Standing to petition the circuit court for access
30 to client records that ~~which~~ are confidential as specified by
31 law. The petition must ~~shall~~ state the specific reasons for

1 which the committee is seeking access and the intended use of
2 such information. The court may authorize committee access to
3 such records upon a finding that such access is directly
4 related to an investigation regarding the possible deprivation
5 of constitutional or human rights or the abuse of a client.
6 Original client files, records, and reports may ~~shall~~ not be
7 removed from a state agency ~~the Department of Health and~~
8 ~~Rehabilitative Services~~ or agency facilities. ~~Under no~~
9 ~~circumstance shall~~ The committee may not have access to
10 confidential adoption records in accordance with ~~the~~
11 ~~provisions of~~ ss. 39.411, 63.022, and 63.162. Upon completion
12 of a general investigation of practices and procedures of any
13 of the state agencies ~~the Department of Health and~~
14 ~~Rehabilitative Services~~, the committee shall report its
15 findings to that agency ~~department~~.

16 (b) All information obtained or produced by the
17 committee which is made confidential by law, which relates to
18 the identity of any client or group of clients subject to the
19 protections of this section, or which relates to the identity
20 of an individual who provides information to the committee
21 about abuse or alleged violations of constitutional or human
22 rights, is confidential and exempt from ~~the provisions of~~ s.
23 119.07(1) and s. 24(a), Art. I of the State Constitution.

24 (c) Portions of meetings of the Statewide Human Rights
25 Advocacy Committee which relate to the identity of any client
26 or group of clients subject to the protections of this
27 section, which relate to the identity of an individual who
28 provides information to the committee about abuse or alleged
29 violations of constitutional or human rights, or wherein
30 testimony is provided relating to records otherwise made
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1 confidential by law, are exempt from ~~the provisions of~~ s.
2 286.011 and s. 24(b), Art. I of the State Constitution.

3 (d) All records prepared by members of the committee
4 which reflect a mental impression, investigative strategy, or
5 theory are exempt from ~~the provisions of~~ s. 119.07(1) and s.
6 24(a), Art. I of the State Constitution until the
7 investigation is completed or until the investigation ceases
8 to be active. For purposes of this section, an investigation
9 is considered "active" while such investigation is being
10 conducted by the committee with a reasonable, good faith
11 belief that it may lead to a finding of abuse or of a
12 violation of human rights. An investigation does not cease to
13 be active so long as the committee is proceeding with
14 reasonable dispatch and there is a good faith belief that
15 action may be initiated by the committee or other
16 administrative or law enforcement agency.

17 (e) Any person who knowingly and willfully discloses
18 any such confidential information commits ~~is guilty of~~ a
19 misdemeanor of the second degree, punishable as provided in s.
20 775.082 or s. 775.083.

21 Section 3. Section 402.166, Florida Statutes, 1996
22 Supplement, is amended to read:

23 402.166 District human rights advocacy committees;
24 confidential records and meetings.--

25 (1) At least one district human rights advocacy
26 committee is created in each service district of the
27 Department of Children and Family ~~Health and Rehabilitative~~
28 Services. The district human rights advocacy committees shall
29 be subject to direction from and the supervision of the
30 Statewide Human Rights Advocacy Committee. The district
31 administrator shall assign staff to provide administrative

1 support to the committees, and staff assigned to these
2 positions shall perform the functions required by the
3 committee without interference from the department. The
4 district committees shall direct the activities of staff
5 assigned to them to the extent necessary for the committees to
6 carry out their duties. The number and areas of
7 responsibility of the district human rights advocacy
8 committees, not to exceed three in any district, shall be
9 determined by the majority vote of district committee members.
10 However, district 2 ~~FF~~ may have four committees. District
11 committees shall meet at facilities under their jurisdiction
12 whenever possible.

13 (2) Each district human rights advocacy committee
14 shall have no fewer than 7 members and no more than 15
15 members, 25 percent of whom are or have been clients of
16 services provided by one or more of the state agencies ~~the~~
17 ~~Department of Health and Rehabilitative Services~~ within the
18 last 4 years, except that one member of this group may be an
19 immediate relative or legal representative of a current or
20 former client; two providers, who deliver services or programs
21 to clients of services provided by one or more of the state
22 agencies ~~the Department of Health and Rehabilitative Services;~~
23 and two representatives of professional organizations, one of
24 whom represents health-related professions and one of whom
25 represents the legal profession. Priority of consideration
26 shall be given to the appointment of at least one medical or
27 osteopathic physician, as defined in chapters 458 and 459, and
28 one member in good standing of The Florida Bar. Priority of
29 consideration shall also be given to the appointment of an
30 individual whose primary interest, experience, or expertise
31 lies with a major client group ~~of the Department of Health and~~

1 ~~Rehabilitative Services~~ not represented on the committee at
2 the time of the appointment. ~~In no case shall~~ A person who is
3 employed by one of the state agencies may not ~~the Department~~
4 ~~of Health and Rehabilitative Services~~ be selected as a member
5 of a committee. ~~At no time shall~~ Individuals who provide ~~are~~
6 ~~providing~~ contracted services to any of the state agencies may
7 not ~~the Department of Health and Rehabilitative Services~~
8 constitute more than 25 percent of the membership of a
9 district committee. Persons related to each other by
10 consanguinity or affinity within the third degree may ~~shall~~
11 not serve on the same district human rights advocacy committee
12 at the same time. All members of district human rights
13 advocacy committees must successfully complete a standardized
14 training course for committee members within 3 months after
15 their appointment to a committee. A member may not be
16 assigned an investigation that ~~which~~ requires access to
17 confidential information prior to the completion of the
18 training course. After he or she completes the required
19 training course, a member of a committee may ~~shall~~ not be
20 prevented from participating in any activity of that
21 committee, including investigations and monitoring, except due
22 to a conflict of interest as described in the procedures
23 established by the Statewide Human Rights Advocacy Committee
24 pursuant to subsection (7).

25 (3)(a) With respect to existing committees, each
26 member shall serve a term of 4 years. Upon expiration of a
27 term and in the case of any other vacancy, the district
28 committee shall appoint a replacement by majority vote of the
29 committee, subject to the approval of the Governor. A member
30 may serve no more than two consecutive terms.

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1 (b)1. The Governor shall appoint the first 4 members
2 of any newly created committee; and those 4 members shall
3 select the remaining 11 members, subject to approval of the
4 Governor. If any of the first four members are not appointed
5 within 60 days after ~~of~~ a request is ~~being~~ submitted to the
6 Governor, those members shall be appointed by a majority vote
7 of the district committee without further action by the
8 Governor.

9 2. Members shall serve for no more than two
10 consecutive terms of 3 years, except that at the time of
11 initial appointment, terms shall be staggered so that the
12 first six members appointed serve for terms of 2 years and the
13 remaining five members serve for terms of 3 years. Vacancies
14 shall be filled as provided in subparagraph 1.

15 (c) If no action is taken by the Governor to approve
16 or disapprove a replacement of a member pursuant to this
17 paragraph within 30 days after the district committee has
18 notified the Governor of the appointment, then the appointment
19 of the replacement shall be considered approved.

20 (d) The limitation on the number of terms a member may
21 serve applies without regard to whether a term was served
22 before or after October 1, 1989.

23 (4) Each committee shall elect a chairperson for a
24 term of 1 year. A person may not serve as chairperson for
25 more than two consecutive terms. The chairperson's term
26 expires on the anniversary of the chairperson's election.

27 (5) ~~If in the event that~~ a committee member fails to
28 attend two-thirds of the regular committee meetings during the
29 course of a year, it shall be the responsibility of the
30 committee to replace such member. If a district committee
31 member violates ~~is in violation of the provisions of this~~

1 ~~section subsection~~ or procedures adopted under this section
2 ~~thereto~~, a district committee may recommend to the Governor
3 that such member be removed.

4 (6) A member of a district committee shall receive no
5 compensation but is ~~shall receive per diem and shall be~~
6 entitled to be reimbursed for per diem and travel expenses as
7 provided in s. 112.061. Members may be provided reimbursement
8 for long-distance telephone calls if such calls were necessary
9 to an investigation of an abuse or deprivation of human
10 rights.

11 (7) A district human rights advocacy committee shall
12 first seek to resolve a complaint with the appropriate local
13 administration, agency, or program; any matter not resolved by
14 the district committee shall be referred to the Statewide
15 Human Rights Advocacy Committee. A district human rights
16 advocacy committee shall comply with appeal procedures
17 established by the Statewide Human Rights Advocacy Committee.
18 The duties, actions, and procedures of both new and existing
19 district human rights advocacy committees shall conform to the
20 provisions of ss. 402.164-402.167 ~~this act~~. The duties of
21 each district human rights advocacy committee ~~shall~~ include,
22 but are not limited to:

23 (a) Serving as an independent third-party mechanism
24 for protecting the constitutional and human rights of any
25 client within a program or facility operated, funded,
26 licensed, or regulated by one of the state agencies ~~the~~
27 ~~Department of Health and Rehabilitative Services~~.

28 (b) Monitoring, by site visit and inspection of
29 records, the delivery and use of services, programs, or
30 facilities operated, funded, regulated, or licensed by any of
31 the state agencies ~~the Department of Health and Rehabilitative~~

1 ~~Services~~ for the purpose of preventing abuse or deprivation of
2 the constitutional and human rights of clients. A district
3 human rights advocacy committee may conduct an unannounced
4 site visit or monitoring visit that involves the inspection of
5 records if such visit is conditioned upon a complaint. A
6 complaint may be generated by the committee itself if
7 information from any of the state agencies ~~the Department of~~
8 ~~Health and Rehabilitative Services~~ or other sources indicates
9 a situation at the program or facility which ~~that~~ indicates
10 possible abuse or neglect of clients. The district human
11 rights advocacy committees shall follow uniform criteria
12 established by the Statewide Human Rights Advocacy Committee
13 for the review of information and generation of complaints.
14 Routine program monitoring and reviews that do not require an
15 examination of records may be made unannounced.

16 (c) Receiving, investigating, and resolving reports of
17 abuse or deprivation of constitutional and human rights.

18 (d) Reviewing and making recommendation with respect
19 to the involvement by clients of any of the state agencies ~~the~~
20 ~~Department of Health and Rehabilitative Services~~ as subjects
21 for research projects, prior to implementation, insofar as
22 their human rights are affected.

23 (e) Reviewing existing programs or services and new or
24 revised programs of the state agencies ~~Department of Health~~
25 ~~and Rehabilitative Services~~ and making recommendations as to
26 how the rights of clients are affected.

27 (f) Appealing to the state committee any complaint
28 unresolved at the district level. Any matter that constitutes
29 a threat to the life, safety, or health of a client or is
30 multidistrict in scope shall automatically be referred to the
31 Statewide Human Rights Advocacy Committee.

1 (g) Submitting an annual report by September 30 to the
2 Statewide Human Rights Advocacy Committee concerning
3 activities, recommendations, and complaints reviewed or
4 developed by the committee during the year.

5 (h) Conducting meetings at least six times a year at
6 the call of the chairperson and at other times at the call of
7 the Governor, at the call of the Statewide Human Rights
8 Advocacy Committee, or by written request of a majority of the
9 members of the committee.

10 (8)(a) In the performance of its duties, a district
11 human rights advocacy committee shall have:

12 1. Access to all client records, files, and reports
13 from any program, service, or facility that is operated,
14 funded, licensed, or regulated by any of the state agencies
15 ~~the Department of Health and Rehabilitative Services~~ and any
16 records that ~~which~~ are material to its investigation and ~~which~~
17 ~~are~~ in the custody of any other agency or department of
18 government. The committee's investigation or monitoring may
19 ~~shall~~ not impede or obstruct matters under investigation by
20 law enforcement or judicial authorities. Access may ~~shall~~ not
21 be granted if a specific procedure or prohibition for
22 reviewing records is required by federal law and regulation
23 that ~~which~~ supersedes state law. Access may ~~shall~~ not be
24 granted to the records of a private licensed practitioner who
25 is providing services outside agencies and facilities and
26 whose client is competent and refuses disclosure.

27 2. Standing to petition the circuit court for access
28 to client records that ~~which~~ are confidential as specified by
29 law. The petition must ~~shall~~ state the specific reasons for
30 which the committee is seeking access and the intended use of
31 such information. The court may authorize committee access to

1 such records upon a finding that such access is directly
2 related to an investigation regarding the possible deprivation
3 of constitutional or human rights or the abuse of a client.
4 Original client files, records, and reports may ~~shall~~ not be
5 removed from a state agency ~~Department of Health and~~
6 ~~Rehabilitative Services~~ or agency facilities. ~~Upon no~~
7 ~~circumstances shall~~ The committee may not have access to
8 confidential adoption records, in accordance with ~~the~~
9 ~~provisions of~~ ss. 39.411, 63.022, and 63.162. Upon completion
10 of a general investigation of practices and procedures of the
11 state agency ~~Department of Health and Rehabilitative Services,~~
12 the committee shall report its findings to the appropriate
13 state agency ~~that department.~~

14 (b) All information obtained or produced by the
15 committee which is made confidential by law, which relates to
16 the identity of any client or group of clients subject to the
17 protection of this section, or which relates to the identity
18 of an individual who provides information to the committee
19 about abuse or alleged violations of constitutional or human
20 rights, is confidential and exempt from ~~the provisions of~~ s.
21 119.07(1) and s. 24(a), Art. I of the State Constitution.

22 (c) Portions of meetings of a district human rights
23 advocacy committee which relate to the identity of any client
24 or group of clients subject to the protections of this
25 section, which relate to the identity of an individual who
26 provides information to the committee about abuse or alleged
27 violations of constitutional or human rights, or wherein
28 testimony is provided relating to records otherwise made
29 confidential by law, are exempt from ~~the provisions of~~ s.
30 286.011 and s. 24(b), Art. I of the State Constitution.

31

1 (d) All records prepared by members of the committee
2 which reflect a mental impression, investigative strategy, or
3 theory are exempt from ~~the provisions of~~ s. 119.07(1) and s.
4 24(a), Art. I of the State Constitution until the
5 investigation is completed or until the investigation ceases
6 to be active. For purposes of this section, an investigation
7 is considered "active" while such investigation is being
8 conducted by the committee with a reasonable, good faith
9 belief that it may lead to a finding of abuse or of a
10 violation of human rights. An investigation does not cease to
11 be active so long as the committee is proceeding with
12 reasonable dispatch and there is a good faith belief that
13 action may be initiated by the committee or other
14 administrative or law enforcement agency.

15 (e) Any person who knowingly and willfully discloses
16 any such confidential information commits ~~is guilty of~~ a
17 misdemeanor of the second degree, punishable as provided in s.
18 775.082 or s. 775.083.

19 Section 4. Section 402.167, Florida Statutes, is
20 amended to read:

21 402.167 ~~Department~~ Duties of the state agencies
22 relating to the Statewide Human Rights Advocacy Committee and
23 the District Human Rights Advocacy Committees.--

24 (1) The state agencies ~~Department of Health and~~
25 ~~Rehabilitative Services~~ shall each adopt rules that ~~which~~ are
26 consistent with law, amended to reflect any statutory changes,
27 and that ~~which~~ rules address at least the following:

28 (a) Procedures by which ~~Department of Health and~~
29 ~~Rehabilitative Services~~ district staff of the state agencies
30 refer reports of abuse to district human rights advocacy
31 committees.

1 (b) Procedures by which client information is made
2 available to members of the Statewide Human Rights Advocacy
3 Committee and the district human rights advocacy committees.

4 (c) Procedures by which recommendations made by human
5 rights advocacy committees will be incorporated into
6 ~~Department of Health and Rehabilitative Services~~ policies and
7 procedures of the state agencies.

8 (d) Procedures by which committee members are
9 reimbursed for authorized expenditures.

10 (2) The Department of Children and Family Health and
11 ~~Rehabilitative~~ Services shall provide for the location of
12 district human rights advocacy committees in district
13 headquarters offices and shall provide necessary equipment and
14 office supplies, including, but not limited to, clerical and
15 word processing services, photocopiers, telephone services,
16 and stationery and other necessary supplies.

17 (3) The secretaries or directors of the state agencies
18 ~~secretary~~ shall ensure the full cooperation and assistance of
19 employees of their respective state agencies ~~the Department of~~
20 ~~Health and Rehabilitative Services~~ with members and staff of
21 the human rights advocacy committees. Further, the secretaries
22 or directors of the state agencies ~~secretary~~ shall ensure
23 that, to the extent possible, staff assigned to the Statewide
24 Human Rights Advocacy Committees and District Human Rights
25 Advocacy Committees are free of interference from or control
26 by any of the state agencies ~~the department~~ in performing
27 their duties relative to those committees.

28 Section 5. This act shall take effect July 1, 1997.
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HOUSE SUMMARY

Expands the duties of the Statewide Human Rights Advocacy Committee and the district human rights advocacy committees to require that the committees monitor and investigate allegations of abuse of human or constitutional rights by the Department of Children and Family Services, the Department of Health, the Department of Elderly Affairs, and the Agency for Health Care Administration. Requires that the district human rights advocacy committees create juvenile justice subcommittees. Requires additional training and continuing education for members of a juvenile justice subcommittee. Provides rulemaking authority for the state agencies that are subject to investigation by the statewide committee and the district committees.