

By the Committee on Children & Family Empowerment and  
Representative Brennan

1                                   A bill to be entitled  
2           An act relating to human rights; amending s.  
3           402.165, F.S.; redesignating the Statewide  
4           Human Rights Advocacy Committee as the  
5           Statewide Human Rights Advocacy Council;  
6           revising membership of the statewide council;  
7           increasing the term of appointment to the  
8           statewide council; amending s. 402.166, F.S.;  
9           redesignating the district human rights  
10          advocacy committees as the local human rights  
11          advocacy councils; providing for additional  
12          local councils to be established; increasing  
13          the term of appointment to a local council;  
14          providing for appointing a vice chairperson to  
15          each local council; providing for local  
16          councils to monitor the activities of, and  
17          investigate complaints against, the Department  
18          of Children and Family Services; amending s.  
19          402.167, F.S.; revising provisions to reflect  
20          the redesignation of the human rights advocacy  
21          committees as human rights advocacy councils;  
22          amending ss. 393.13, 394.459, 394.4595,  
23          394.4597, 394.4598, 394.4599, 394.4615,  
24          400.0067, 400.0089, 400.419, 400.428, 415.1034,  
25          415.104, 415.1055, 415.106, 415.107, 415.501,  
26          415.505, 415.51, F.S.; conforming terminology  
27          to changes made by the act; providing an  
28          effective date.  
29  
30   Be It Enacted by the Legislature of the State of Florida:  
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1 Section 1. Section 402.165, Florida Statutes, 1996  
2 Supplement, is amended to read:

3 402.165 Statewide Human Rights Advocacy Council  
4 ~~Committee~~; confidential records and meetings.--

5 (1) There is created within the Department of Children  
6 and Family Health and Rehabilitative Services a Statewide  
7 Human Rights Advocacy Council ~~Committee~~. Members of the  
8 council shall represent the interests of clients who are  
9 served by the department. The department of Health and  
10 ~~Rehabilitative Services~~ shall provide administrative support  
11 and service to the statewide council ~~committee~~ to the extent  
12 requested by the executive director within available  
13 resources. The statewide council is Human Rights Advocacy  
14 ~~Committee shall not be~~ subject to control, supervision, or  
15 direction by the Department of Children and Family Health and  
16 ~~Rehabilitative Services~~ in the performance of its duties. The  
17 council ~~committee~~ shall consist of 15 citizens, one from each  
18 service district of the department ~~of Health and~~  
19 ~~Rehabilitative Services~~, who broadly represent the interests  
20 of the public and the clients of that department. The members  
21 shall be representative of five groups of citizens as follows:  
22 one provider ~~one elected public official; two providers~~ who  
23 delivers ~~deliver~~ services or programs to clients of the  
24 Department of Children and Family Health and Rehabilitative  
25 Services; two ~~four~~ nonsalaried representatives of nonprofit  
26 agencies or civic groups; four representatives of ~~health and~~  
27 ~~rehabilitative services~~ consumer groups who are currently  
28 receiving, or have received, services from the Department of  
29 Children and Family Health and Rehabilitative Services within  
30 the past 4 years, at least one of whom must be a consumer; and  
31 two ~~four~~ residents of the state who do not represent any of

1 the foregoing groups, one ~~two~~ of whom represents ~~represent~~  
2 health-related professions and one ~~two~~ of whom represents  
3 ~~represent~~ the legal profession. In appointing the  
4 representatives of the health-related professions, the  
5 appointing authority shall give priority of consideration to a  
6 physician licensed under chapter 458 or chapter 459; and, in  
7 appointing the representatives of the legal profession, the  
8 appointing authority shall give priority of consideration to a  
9 member in good standing of The Florida Bar. Priority shall  
10 also be given to appointing at least one elected official; one  
11 additional health professional; one additional legal  
12 professional; one additional provider; two additional  
13 nonsalaried representatives of nonprofit agencies or civic  
14 groups; and an individual whose primary area of interest,  
15 experience, or expertise is a major client group of the  
16 Department of Children and Family Services which is not  
17 represented on the council at the time of appointment. Except  
18 for the member who is an elected public official, each member  
19 of the statewide council ~~Human Rights Advocacy Committee~~ must  
20 have served as a member of a local ~~district~~ human rights  
21 advocacy council, with priority consideration given to an  
22 applicant who has served a full term on a local council  
23 committee. Persons related to each other by consanguinity or  
24 affinity within the third degree may not serve on the  
25 statewide council ~~Human Rights Advocacy Committee~~ at the same  
26 time.

27 (2) Members of the statewide council ~~Human Rights~~  
28 ~~Advocacy Committee~~ shall be appointed to serve terms of 4 ~~3~~  
29 years, retroactive to the members in office on July 1, 1997.  
30 A member may not serve more than two full, consecutive terms.  
31 The limitation on the number of terms a member may serve

1 applies without regard to whether a term was served before or  
2 after October 1, 1989.

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

13 (4) The Governor shall fill each vacancy on the  
14 statewide council ~~Human Rights Advocacy Committee~~ from a list  
15 of nominees submitted by the statewide council ~~committee~~. A  
16 list of candidates shall be submitted to the statewide council  
17 ~~committee~~ by the local council ~~district human rights advocacy~~  
18 ~~committee~~ in the district from which the vacancy occurs.  
19 Priority of consideration shall be given to the appointment of  
20 an individual whose primary interest, experience, or expertise  
21 lies with a major client group of the Department of Children  
22 and Family ~~Health and Rehabilitative Services~~ which is not  
23 represented on the council ~~committee~~ at the time of the  
24 appointment. If an appointment is not made within 60 days  
25 after a vacancy occurs on the council ~~committee~~, the vacancy  
26 shall be filled by a majority vote of the statewide council  
27 ~~committee~~ without further action by the Governor. A ~~No~~ person  
28 who is employed by the Department of Children and Family  
29 ~~Health and Rehabilitative Services~~ may not be appointed to the  
30 council ~~committee~~.

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1           (5)(a) Members of the statewide council ~~Human Rights~~  
2 ~~Advocacy Committee~~ shall receive no compensation, but are  
3 ~~shall be~~ entitled to be reimbursed for per diem and travel  
4 expenses in accordance with s. 112.061.

5           (b) The council ~~committee~~ shall select an executive  
6 director who shall serve at the pleasure of the council  
7 ~~committee~~ and shall perform the duties delegated to him or her  
8 by the council ~~committee~~. The compensation of the executive  
9 director shall be established in accordance with the rules of  
10 the Selected Exempt Service.

11           (c) The council ~~committee~~ may apply for, receive, and  
12 accept grants, gifts, donations, bequests, and other payments  
13 including money or property, real or personal, tangible or  
14 intangible, and service from any governmental or other public  
15 or private entity or person and make arrangements as to the  
16 use of same.

17           (d) The statewide council ~~Human Rights Advocacy~~  
18 ~~Committee~~ shall annually prepare a budget request that is  
19 ~~shall not be~~ subject to change by department staff after it is  
20 approved by the council ~~committee~~, but the budget request  
21 shall be submitted to the Governor by the department for  
22 transmittal to the Legislature. The budget must ~~shall~~ include  
23 a request for funds to carry out the activities of the  
24 statewide council ~~Human Rights Advocacy Committee~~ and the  
25 local councils ~~district human rights advocacy committees~~.

26           (6) The members of the statewide council ~~Human Rights~~  
27 ~~Advocacy Committee~~ shall elect a chairperson and vice  
28 chairperson to terms ~~a term~~ of 1 year. A person may not serve  
29 as chairperson or vice chairperson for more than two full,  
30 consecutive terms.

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1           (7) The responsibilities of the council ~~committee~~  
2 include, but are not limited to:

3           (a) Serving as an independent third-party mechanism  
4 for protecting the constitutional and human rights of any  
5 client within a program or facility operated, funded,  
6 licensed, or regulated by the Department of Children and  
7 Family ~~Health and Rehabilitative~~ Services.

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

27           (c) Receiving, investigating, and resolving reports of  
28 abuse or deprivation of constitutional and human rights  
29 referred to the statewide council ~~Human Rights Advocacy~~  
30 ~~Committee~~ by a local council ~~district human rights advocacy~~  
31 ~~committee~~. If a matter constitutes a threat to the life,

1 safety, or health of clients or is multidistrict in scope, the  
2 statewide council ~~Human Rights Advocacy Committee~~ may exercise  
3 such powers without the necessity of a referral from a local  
4 council ~~district committee~~.

5 (d) Reviewing existing programs or services and new or  
6 revised programs of the Department of Children and Family  
7 ~~Health and Rehabilitative~~ Services and making recommendations  
8 as to how the rights of clients are affected.

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

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

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

22 1. The responsibilities of the statewide council and  
23 the local councils ~~committee~~;

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

31

- 1           3. Uniform procedures for the statewide council  
2 ~~committee~~ and the local councils ~~district committees~~ to  
3 receive and investigate reports of abuse of constitutional or  
4 human rights;
- 5           4. The responsibilities and relationship of the local  
6 councils ~~district human rights advocacy committees~~ to the  
7 statewide council ~~committee~~;
- 8           5. The relationship of the statewide council ~~committee~~  
9 to the Department of Children and Family 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 Department of Children and Family 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 statewide  
17 council ~~state committee~~ is made by a local council ~~district~~  
18 ~~human rights advocacy committee~~ when a valid complaint is not  
19 resolved at the local ~~district~~ level. The statewide council  
20 ~~committee~~ may appeal an unresolved complaint to the Secretary  
21 of Children and Family ~~the Department of Health and~~  
22 ~~Rehabilitative~~ Services. If, after exhausting all remedies,  
23 the statewide council ~~committee~~ is not satisfied that the  
24 complaint can be resolved within the Department of Children  
25 and Family Health ~~and Rehabilitative~~ Services, the appeal may  
26 be referred to the 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 council ~~committee~~ and local councils  
31 ~~district committees~~.



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

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

8           (8)(a) In the performance of its duties, the statewide  
9 ~~<U>council~~ ~~Human Rights Advocacy Committee~~ shall have:

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

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

30           3. Standing to petition the circuit court for access  
31 to client records that ~~which~~ are confidential as specified by

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

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

27 (c) Portions of meetings of the statewide council  
28 ~~Human Rights Advocacy Committee~~ which relate to the identity  
29 of any client or group of clients subject to the protections  
30 of this section, which relate to the identity of an individual  
31 who provides information to the council committee about abuse

1 or alleged violations of constitutional or human rights, or  
2 wherein testimony is provided relating to records otherwise  
3 made confidential by law, are exempt from ~~the provisions of s.~~  
4 286.011 and s. 24(b), Art. I of the State Constitution.

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

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

24 Section 2. Section 402.166, Florida Statutes, 1996  
25 Supplement, is amended to read:

26 402.166 Local District human rights advocacy councils  
27 ~~committees~~; confidential records and meetings.--

28 (1) At least one local district human rights advocacy  
29 council committee is created in each service district of the  
30 Department of Children and Family Health and Rehabilitative  
31 Services. The local district human rights advocacy councils

1 ~~are committees shall be~~ subject to direction from and the  
2 supervision of the Statewide Human Rights Advocacy Council  
3 ~~Committee~~. The district administrator shall assign staff to  
4 provide administrative support to the local councils  
5 ~~committees~~, and staff assigned to these positions shall  
6 perform the functions required by the local council committee  
7 without interference from the department. The local councils  
8 ~~district committees~~ shall direct the activities of staff  
9 assigned to them to the extent necessary for the councils  
10 ~~committees~~ to carry out their duties. The number and areas of  
11 responsibility of the local councils ~~district human rights~~  
12 ~~advocacy committees~~, not to exceed three in any district,  
13 shall be determined by the majority vote of local council  
14 ~~district committee~~ members. However, district II may have four  
15 councils, and any district that has a developmental services  
16 institution, as defined in s. 393.063, or a state mental  
17 hospital may, by a majority vote of the local council members,  
18 petition the statewide council to establish a separate council  
19 to serve this population ~~committees~~. Local councils ~~District~~  
20 ~~committees~~ shall meet at facilities under their jurisdiction  
21 whenever possible.

22 (2) Each local council ~~district human rights advocacy~~  
23 ~~committee~~ shall have no fewer than 7 members and no more than  
24 15 members, 25 percent of whom are or have been clients of the  
25 Department of Children and Family ~~Health and Rehabilitative~~  
26 Services within the last 4 years, except that one member of  
27 this group may be an immediate relative or legal  
28 representative of a current or former client; two providers,  
29 who deliver services or programs to clients of the Department  
30 of Children and Family ~~Health and Rehabilitative~~ Services; and  
31 two representatives of professional organizations, one of whom

1 represents health-related professions and one of whom  
2 represents the legal profession. Priority of consideration  
3 shall be given to the appointment of at least one medical or  
4 osteopathic physician, as defined in chapters 458 and 459, and  
5 one member in good standing of The Florida Bar. Priority of  
6 consideration shall also be given to the appointment of an  
7 individual whose primary interest, experience, or expertise  
8 lies with a major client group of the Department of Children  
9 and Family ~~Health and Rehabilitative~~ Services which is not  
10 represented on the council committee at the time of the  
11 appointment. ~~In no case shall~~ A person who is employed by the  
12 Department of Children and Family ~~Health and Rehabilitative~~  
13 Services may not be selected as a member of a council  
14 ~~committee~~. ~~At no time shall~~ Individuals who are providing  
15 contracted services to the Department of Children and Family  
16 ~~Health and Rehabilitative~~ Services may not constitute more  
17 than 25 percent of the membership of a local council district  
18 ~~committee~~. Persons related to each other by consanguinity or  
19 affinity within the third degree may ~~shall~~ not serve on the  
20 same local council district human rights advocacy committee at  
21 the same time. All members of local councils district human  
22 ~~rights advocacy committees~~ must successfully complete a  
23 standardized training course for council committee members  
24 within 3 months after their appointment to a council  
25 ~~committee~~. A member may not be assigned an investigation that  
26 ~~which~~ requires access to confidential information prior to the  
27 completion of the training course. After he or she completes  
28 the required training course, a member of a council may  
29 ~~committee shall~~ not be prevented from participating in any  
30 activity of that council committee, including investigations  
31 and monitoring, except due to a conflict of interest as

1 described in the procedures established by the Statewide Human  
2 Rights Advocacy Council ~~Committee~~ pursuant to subsection (7).

3 (3)(a) With respect to existing councils ~~committees~~,  
4 each member shall serve a term of 4 years. Upon expiration of  
5 a term and in the case of any other vacancy, the local council  
6 ~~district committee~~ shall appoint a replacement by majority  
7 vote of the council ~~committee~~, subject to the approval of the  
8 Governor. A member may serve no more than two full,  
9 consecutive terms.

10 (b)1. The Governor shall appoint the first 4 members  
11 of any newly created council ~~committee~~; and those 4 members  
12 shall select the remaining 11 members, subject to approval of  
13 the Governor. If any of the first four members are not  
14 appointed within 60 days after ~~of~~ a request being submitted to  
15 the Governor, those members shall be appointed by a majority  
16 vote of the local council ~~district committee~~ without further  
17 action by the Governor.

18 2. Members shall serve for no more than two full,  
19 consecutive terms of 4 ~~3~~ years, except that at the time of  
20 initial appointment, terms shall be staggered so that the  
21 first six members appointed serve for terms of 2 years and the  
22 remaining five members serve for terms of 4 ~~3~~ years.  
23 Vacancies shall be filled as provided in subparagraph 1.

24 (c) If no action is taken by the Governor to approve  
25 or disapprove a replacement of a member pursuant to this  
26 paragraph within 30 days after the local council ~~district~~  
27 ~~committee~~ has notified the Governor of the appointment, then  
28 the appointment of the replacement shall be considered  
29 approved.

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

4           (4) Each council ~~committee~~ shall elect a chairperson  
5 and vice chairperson for a term of 1 year. A person may not  
6 serve as chairperson or vice chairperson for more than two  
7 consecutive terms. The chairperson's and vice chairperson's  
8 terms expire ~~term expires~~ on the anniversary of their ~~the~~  
9 ~~chairperson's~~ election.

10           (5) ~~If in the event that~~ a council ~~committee~~ member  
11 fails to attend two-thirds of the regular council ~~committee~~  
12 meetings during the course of a year, the council shall it  
13 ~~shall be the responsibility of the committee to~~ replace such  
14 member. If a local council ~~district committee~~ member violates  
15 ~~is in violation of the provisions of this section subsection~~  
16 or procedures adopted under this section ~~thereto~~, a local  
17 council ~~district committee~~ may recommend to the Governor that  
18 such member be removed.

19           (6) A member of a local council ~~district committee~~  
20 shall receive no compensation but is ~~shall receive per diem~~  
21 ~~and shall be~~ entitled to reimbursement ~~be reimbursed~~ for per  
22 diem and travel expenses as provided in s. 112.061. Members  
23 may be provided reimbursement for long-distance telephone  
24 calls if such calls were necessary to an investigation of an  
25 abuse or deprivation of human rights.

26           (7) A local council ~~district human rights advocacy~~  
27 ~~committee~~ shall first seek to resolve a complaint with the  
28 appropriate local administration, agency, or program. ~~Any~~  
29 matter not resolved by the local council ~~district committee~~  
30 shall be referred to the statewide council ~~Human Rights~~  
31 ~~Advocacy Committee~~. A local council ~~district human rights~~

1 ~~advocacy committee~~ shall comply with appeal procedures  
2 established by the statewide council ~~Human Rights Advocacy~~  
3 ~~Committee~~. The duties, actions, and procedures of both new  
4 and existing local councils ~~district human rights advocacy~~  
5 ~~committees~~ shall conform to the provisions of ss.  
6 402.164-402.167 ~~this act~~. The duties of each local council  
7 ~~district human rights advocacy committee~~ shall include, but  
8 are not limited to:

9 (a) Serving as an independent third-party mechanism  
10 for protecting the constitutional and human rights of any  
11 client within a program or facility operated, funded,  
12 licensed, or regulated by the Department of Children and  
13 Family Health and Rehabilitative Services.

14 (b) Monitoring by site visit and inspection of  
15 records, the delivery and use of services, programs or  
16 facilities operated, funded, regulated or licensed by the  
17 Department of Children and Family Health and Rehabilitative  
18 Services for the purpose of preventing abuse or deprivation of  
19 the constitutional and human rights of clients. A local  
20 council ~~district human rights advocacy committee~~ may conduct  
21 an unannounced site visit or monitoring visit that involves  
22 the inspection of records if such visit is conditioned upon a  
23 complaint. A complaint may be generated by the council  
24 ~~committee~~ itself if information from the Department of  
25 Children and Family Health and Rehabilitative Services or  
26 other sources indicates a situation at the program or facility  
27 which ~~that~~ indicates possible abuse or neglect of clients.  
28 The local council ~~district human rights advocacy committees~~  
29 shall follow uniform criteria established by the statewide  
30 council ~~Human Rights Advocacy Committee~~ for the review of  
31 information and generation of complaints. Routine program



1 monitoring and reviews that do not require an examination of  
2 records may be made unannounced.

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

5 (d) Reviewing and making recommendations  
6 ~~recommendation~~ with respect to the involvement by clients of  
7 the Department of Children and Family Health and  
8 ~~Rehabilitative~~ Services as subjects for research projects,  
9 prior to implementation, insofar as their human rights are  
10 affected.

11 (e) Reviewing existing programs or services and new or  
12 revised programs of the Department of Children and Family  
13 ~~Health and Rehabilitative~~ Services and making recommendations  
14 as to how the rights of clients are affected.

15 (f) Appealing to the statewide council ~~state committee~~  
16 any complaint unresolved at the local ~~district~~ level. Any  
17 matter that constitutes a threat to the life, safety, or  
18 health of a client or is multidistrict in scope shall  
19 automatically be referred to the statewide council ~~Human~~  
20 ~~Rights Advocacy Committee~~.

21 (g) Submitting an annual report by September 30 to the  
22 statewide council ~~Human Rights Advocacy Committee~~ concerning  
23 activities, recommendations, and complaints reviewed or  
24 developed by the council ~~committee~~ during the year.

25 (h) Conducting meetings at least six times a year at  
26 the call of the chairperson and at other times at the call of  
27 the Governor, at the call of the statewide council ~~Human~~  
28 ~~Rights Advocacy Committee~~, or by written request of a majority  
29 of the members of the council ~~committee~~.

30 (8)(a) In the performance of its duties, a local  
31 council ~~district human rights advocacy committee~~ shall have:

1           1. Access to all client records, files, and reports  
2 from any program, service, or facility that is operated,  
3 funded, licensed, or regulated by the Department of Children  
4 and Family Health and Rehabilitative Services and any records  
5 that ~~which~~ are material to its investigation and ~~which are~~ in  
6 the custody of any other agency or department of government.  
7 The council's ~~committee's~~ investigation or monitoring may  
8 ~~shall~~ not impede or obstruct matters under investigation by  
9 law enforcement agencies or judicial authorities. Access may  
10 ~~shall~~ not be granted if a specific procedure or prohibition  
11 for reviewing records is required by federal law and  
12 regulation that ~~which~~ supersedes state law. Access may ~~shall~~  
13 not be granted to the records of a private licensed  
14 practitioner who is providing services outside state agencies  
15 and facilities and whose client is competent and refuses  
16 disclosure.

17           2. Standing to petition the circuit court for access  
18 to client records that ~~which~~ are confidential as specified by  
19 law. The petition must ~~shall~~ state the specific reasons for  
20 which the council ~~committee~~ is seeking access and the intended  
21 use of such information. The court may authorize ~~committee~~  
22 access to such records upon a finding that such access is  
23 directly related to an investigation regarding the possible  
24 deprivation of constitutional or human rights or the abuse of  
25 a client. Original client files, records, and reports may  
26 ~~shall~~ not be removed from Department of Children and Family  
27 Health and Rehabilitative Services or agency facilities. ~~Upon~~  
28 ~~no circumstances shall~~ The local council may not ~~committee~~  
29 have access to confidential adoption records in accordance  
30 with ~~the provisions of~~ ss. 39.411, 63.022, and 63.162. Upon  
31 completion of a general investigation of practices and

1 procedures of the Department of Children and Family Health and  
2 ~~Rehabilitative~~ Services, the council committee shall report  
3 its findings to that department.

4 (b) All information obtained or produced by a local  
5 council ~~the committee~~ which is made confidential by law, which  
6 relates to the identity of any client or group of clients  
7 subject to the protection of this section, or which relates to  
8 the identity of an individual who provides information to the  
9 council committee about abuse or alleged violations of  
10 constitutional or human rights, is confidential and exempt  
11 from ~~the provisions of~~ s. 119.07(1) and s. 24(a), Art. I of  
12 the State Constitution.

13 (c) Portions of meetings of a local council district  
14 ~~human rights advocacy committee~~ which relate to the identity  
15 of any client or group of clients subject to the protections  
16 of this section, which relate to the identity of an individual  
17 who provides information to the council committee about abuse  
18 or alleged violations of constitutional or human rights, or  
19 wherein testimony is provided relating to records otherwise  
20 made confidential by law, are exempt from ~~the provisions of~~ s.  
21 286.011 and s. 24(b), Art. I of the State Constitution.

22 (d) All records prepared by members of a local council  
23 ~~the committee~~ which reflect a mental impression, investigative  
24 strategy, or theory are exempt from ~~the provisions of~~ s.  
25 119.07(1) and s. 24(a), Art. I of the State Constitution until  
26 the investigation is completed or until the investigation  
27 ceases to be active. For purposes of this section, an  
28 investigation is considered "active" while such investigation  
29 is being conducted by a local council ~~the committee~~ with a  
30 reasonable, good faith belief that it may lead to a finding of  
31 abuse or of a violation of human rights. An investigation

1 does not cease to be active so long as the council ~~committee~~  
2 is proceeding with reasonable dispatch and there is a good  
3 faith belief that action may be initiated by the council  
4 ~~committee~~ or other administrative or law enforcement agency.

5 (e) Any person who knowingly and willfully discloses  
6 any such confidential information is guilty of a misdemeanor  
7 of the second degree, punishable as provided in s. 775.082 or  
8 s. 775.083.

9 Section 3. Section 402.167, Florida Statutes, is  
10 amended to read:

11 402.167 Department duties relating to the Statewide  
12 Human Rights Advocacy Council ~~Committee~~ and the Local ~~District~~  
13 Human Rights Advocacy Councils ~~Committees~~.--

14 (1) The Department of Children and Family ~~Health and~~  
15 ~~Rehabilitative~~ Services shall adopt rules that ~~which~~ are  
16 consistent with law, amended to reflect any statutory changes,  
17 and that ~~which~~ rules address at least the following:

18 (a) Procedures by which Department of Children and  
19 ~~Family Health and Rehabilitative~~ Services district staff refer  
20 reports of abuse to local councils ~~district human rights~~  
21 ~~advocacy committees~~.

22 (b) Procedures by which client information is made  
23 available to members of the statewide council ~~Human Rights~~  
24 ~~Advocacy Committee~~ and the local councils ~~district human~~  
25 ~~rights advocacy committees~~.

26 (c) Procedures by which recommendations made by the  
27 ~~councils human rights advocacy committees~~ will be incorporated  
28 into Department of Children and Family ~~Health and~~  
29 ~~Rehabilitative~~ Services policies and procedures.

30 (d) Procedures by which council ~~committee~~ members are  
31 reimbursed for authorized expenditures.

1           (2) The Department of Children and Family Health and  
2 ~~Rehabilitative~~ Services shall provide for the location of  
3 local councils ~~district human rights advocacy committees~~ in  
4 district headquarters offices and shall provide necessary  
5 equipment and office supplies, including, but not limited to,  
6 clerical and word processing services, photocopiers, telephone  
7 services, and stationery and other necessary supplies.

8           (3) The secretary shall ensure the full cooperation  
9 and assistance of employees of the Department of Children and  
10 Family Health and Rehabilitative Services with members and  
11 staff of the human rights advocacy councils ~~committees~~.

12 Further, the secretary shall ensure that to the extent  
13 possible, staff assigned to the Statewide Human Rights  
14 Advocacy Council ~~Committees~~ and Local ~~District~~ Human Rights  
15 Advocacy Councils ~~Committees~~ are free of interference from or  
16 control by the department in performing their duties relative  
17 to those councils ~~committees~~.

18           Section 4. Paragraphs (g) and (i) of subsection (4)  
19 and subsection (7) of section 393.13, Florida Statutes, 1996  
20 Supplement, are amended to read:

21           393.13 Personal treatment of persons who are  
22 developmentally disabled.--

23           (4) CLIENT RIGHTS.--For purposes of this subsection,  
24 the term "client," as defined in s. 393.063, shall also  
25 include any person served in a facility licensed pursuant to  
26 s. 393.067.

27           (g) No client shall be subjected to a treatment  
28 program to eliminate bizarre or unusual behaviors without  
29 first being examined by a physician who in his or her best  
30 judgment determines that such behaviors are not organically  
31 caused.

1           1. Treatment programs involving the use of noxious or  
2 painful stimuli shall be prohibited.

3           2. All alleged violations of this paragraph shall be  
4 reported immediately to the chief administrative officer of  
5 the facility or the district administrator, the department  
6 head, and the local ~~district~~ human rights advocacy council  
7 ~~committee~~. A thorough investigation of each incident shall be  
8 conducted and a written report of the finding and results of  
9 such investigation shall be submitted to the chief  
10 administrative officer of the facility or the district  
11 administrator and to the department head within 24 hours of  
12 the occurrence or discovery of the incident.

13           3. The department shall promulgate by rule a system  
14 for the oversight of behavioral programs. Such system shall  
15 establish guidelines and procedures governing the design,  
16 approval, implementation, and monitoring of all behavioral  
17 programs involving clients. The system shall ensure statewide  
18 and local review by committees of professionals certified as  
19 behavior analysts pursuant to s. 393.17. No behavioral  
20 program shall be implemented unless reviewed according to the  
21 rules established by the department under this section.  
22 Nothing stated in this section shall prohibit the review of  
23 programs by the local ~~district~~ human rights advocacy council  
24 ~~committee~~.

25           (i) Clients shall have the right to be free from  
26 unnecessary physical, chemical, or mechanical restraint.  
27 Restraints shall be employed only in emergencies or to protect  
28 the client from imminent injury to himself or herself or  
29 others. Restraints shall not be employed as punishment, for  
30 the convenience of staff, or as a substitute for a  
31 habilitative plan. Restraints shall impose the least possible

1 restrictions consistent with their purpose and shall be  
2 removed when the emergency ends. Restraints shall not cause  
3 physical injury to the client and shall be designed to allow  
4 the greatest possible comfort.

5         1. Mechanical supports used in normative situations to  
6 achieve proper body position and balance shall not be  
7 considered restraints, but shall be prescriptively designed  
8 and applied under the supervision of a qualified professional  
9 with concern for principles of good body alignment,  
10 circulation, and allowance for change of position.

11         2. Totally enclosed cribs and barred enclosures shall  
12 be considered restraints.

13         3. Daily reports on the employment of physical,  
14 chemical, or mechanical restraints by those specialists  
15 authorized in the use of such restraints shall be made to the  
16 appropriate chief administrator of the facility, and a monthly  
17 summary of such reports shall be relayed to the district  
18 administrator and the local district human rights advocacy  
19 council committee. The reports shall summarize all such cases  
20 of restraints, the type used, the duration of usage, and the  
21 reasons therefor. Districts shall submit districtwide  
22 quarterly reports of these summaries to the state  
23 Developmental Services Program Office.

24         4. The department shall post a copy of the rules  
25 promulgated under this section in each living unit of  
26 residential facilities. A copy of the rules promulgated under  
27 this section shall be given to all staff members of licensed  
28 facilities and made a part of all preservice and inservice  
29 training programs.

30         (7) RESIDENT GOVERNMENT.--Each residential facility  
31 providing services to clients who are desirous and capable of

1 participating shall initiate and develop a program of resident  
2 government to hear the views and represent the interests of  
3 all clients served by the facility. The resident government  
4 shall be composed of residents elected by other residents,  
5 staff advisers skilled in the administration of community  
6 organizations, and a representative of the local district  
7 human rights advocacy council ~~committee~~. The resident  
8 government shall work closely with the local district human  
9 rights advocacy council ~~committee~~ and the district  
10 administrator to promote the interests and welfare of all  
11 residents in the facility.

12 Section 5. Paragraph (c) of subsection (5) and  
13 subsection (12) of section 394.459, Florida Statutes, 1996  
14 Supplement, are amended to read:

15 394.459 Rights of patients.--

16 (5) COMMUNICATION, ABUSE REPORTING, AND VISITS.--

17 (c) Each facility must permit immediate access to any  
18 patient, subject to the patient's right to deny or withdraw  
19 consent at any time, by the patient's family members,  
20 guardian, guardian advocate, representative, human rights  
21 advocacy council ~~committee~~, or attorney, unless such access  
22 would be detrimental to the patient. If a patient's right to  
23 communicate or to receive visitors is restricted by the  
24 facility, written notice of such restriction and the reasons  
25 for the restriction shall be served on the patient, the  
26 patient's attorney, and the patient's guardian, guardian  
27 advocate, or representative; and such restriction shall be  
28 recorded on the patient's clinical record with the reasons  
29 therefor. The restriction of a patient's right to communicate  
30 or to receive visitors shall be reviewed at least every 7  
31 days. The right to communicate or receive visitors shall not



1 be restricted as a means of punishment. Nothing in this  
2 paragraph shall be construed to limit the provisions of  
3 paragraph (d).

4 (12) POSTING OF NOTICE OF RIGHTS OF PATIENTS.--Each  
5 facility shall post a notice listing and describing, in the  
6 language and terminology that the persons to whom the notice  
7 is addressed can understand, the rights provided in this  
8 section. This notice shall include a statement that  
9 provisions of the federal Americans with Disabilities Act  
10 apply and the name and telephone number of a person to contact  
11 for further information. This notice shall be posted in a  
12 place readily accessible to patients and in a format easily  
13 seen by patients. This notice shall include the telephone  
14 numbers of the local human rights advocacy council ~~committee~~  
15 and Advocacy Center for Persons with Disabilities, Inc.

16 Section 6. Section 394.4595, Florida Statutes, 1996  
17 Supplement, is amended to read:

18 394.4595 Human Rights Advocacy Council ~~Committee~~  
19 access to patients and records.--Any facility designated by  
20 the department as a receiving or treatment facility must allow  
21 access to any patient and the clinical and legal records of  
22 any patient admitted pursuant to the provisions of this act by  
23 members of the Human Rights Advocacy Council ~~Committee~~.

24 Section 7. Paragraph (d) of subsection (2) of section  
25 394.4597, Florida Statutes, 1996 Supplement, is amended to  
26 read:

27 394.4597 Persons to be notified; patient's  
28 representative.--

29 (2) INVOLUNTARY PATIENTS.--

30 (d) When the receiving or treatment facility selects a  
31 representative, first preference shall be given to a health

1 care surrogate, if one has been previously selected by the  
2 patient. If the patient has not previously selected a health  
3 care surrogate, the selection, except for good cause  
4 documented in the patient's clinical record, shall be made  
5 from the following list in the order of listing:

- 6 1. The patient's spouse.
- 7 2. An adult child of the patient.
- 8 3. A parent of the patient.
- 9 4. The adult next of kin of the patient.
- 10 5. An adult friend of the patient.
- 11 6. The appropriate human rights advocacy council  
12 ~~committee~~ as provided in s. 402.166.

13 Section 8. Subsection (1) of section 394.4598, Florida  
14 Statutes, 1996 Supplement, is amended to read:

15 394.4598 Guardian advocate.--

16 (1) The administrator may petition the court for the  
17 appointment of a guardian advocate based upon the opinion of a  
18 psychiatrist that the patient is incompetent to consent to  
19 treatment. If the court finds that a patient is incompetent to  
20 consent to treatment and has not been adjudicated  
21 incapacitated and a guardian with the authority to consent to  
22 mental health treatment appointed, it shall appoint a guardian  
23 advocate. The patient has the right to have an attorney  
24 represent him at the hearing. If the person is indigent, the  
25 court shall appoint the office of the public defender to  
26 represent him at the hearing. The patient has the right to  
27 testify, cross-examine witnesses, and present witnesses. The  
28 proceeding shall be recorded either electronically or  
29 stenographically, and testimony shall be provided under oath.  
30 One of the professionals authorized to give an opinion in  
31 support of a petition for involuntary placement, as described

1 in s. 394.467(2), must testify. A guardian advocate must meet  
2 the qualifications of a guardian contained in part IV of  
3 chapter 744, except that a professional referred to in this  
4 part, an employee of the facility providing direct services to  
5 the patient under this part, a departmental employee, a  
6 facility administrator, or member of the local ~~district~~ human  
7 rights advocacy council ~~committee~~ shall not be appointed.  
8 A person who is appointed as a guardian advocate must agree to  
9 the appointment.

10 Section 9. Paragraph (b) of subsection (2) of section  
11 394.4599, Florida Statutes, 1996 Supplement, is amended to  
12 read:

13 394.4599 Notice.--

14 (2) INVOLUNTARY PATIENTS.--

15 (b) A receiving facility shall give prompt notice of  
16 the whereabouts of a patient who is being involuntarily held  
17 for examination, by telephone or in person within 24 hours  
18 after the patient's arrival at the facility, unless the  
19 patient requests that no notification be made. Contact  
20 attempts shall be documented in the patient's clinical record  
21 and shall begin as soon as reasonably possible after the  
22 patient's arrival. Notice that a patient is being admitted as  
23 an involuntary patient shall be given to the local human  
24 rights advocacy council ~~committee~~ no later than the next  
25 working day after the patient is admitted.

26 Section 10. Subsection (5) of section 394.4615,  
27 Florida Statutes, 1996 Supplement, is amended to read:

28 394.4615 Clinical records; confidentiality.--

29 (5) Information from clinical records may be used by  
30 the Agency for Health Care Administration, the department, and  
31 the human rights advocacy councils ~~committees~~ for the purpose

1 of monitoring facility activity and complaints concerning  
2 facilities.

3 Section 11. Paragraph (g) of subsection (2) of section  
4 400.0067, Florida Statutes, is amended to read:

5 400.0067 Establishment of State Long-Term Care  
6 Ombudsman Council; duties; membership.--

7 (2) The State Long-Term Care Ombudsman Council shall:

8 (g) Enter into a cooperative agreement with the  
9 statewide and local ~~district~~ human rights advocacy councils  
10 ~~committees~~ for the purpose of coordinating advocacy services  
11 provided to residents of long-term care facilities.

12 Section 12. Section 400.0089, Florida Statutes, is  
13 amended to read:

14 400.0089 Agency reports.--The State Long-Term Care  
15 Ombudsman Council, shall, in cooperation with the Department  
16 of Elderly Affairs, maintain a statewide uniform reporting  
17 system to collect and analyze data relating to complaints and  
18 conditions in long-term care facilities and to residents, for  
19 the purpose of identifying and resolving significant problems.  
20 The council shall submit such data as part of its annual  
21 report required pursuant to s. 400.0067(2)(h) to the Agency  
22 for Health Care Administration, the Department of Health and  
23 Rehabilitative Services, the Statewide Human Rights Advocacy  
24 Council ~~Committee~~, the Advocacy Center for Persons with  
25 Disabilities, the Commissioner for the United States  
26 Administration on Aging, the National Ombudsman Resource  
27 Center, and any other state or federal entities that the  
28 ombudsman determines appropriate.

29 Section 13. Subsection (6) of section 400.419, Florida  
30 Statutes, is amended to read:

31 400.419 Violations; penalties.--

1           (6) The agency shall develop and disseminate an annual  
2 list of all facilities sanctioned or fined in excess of \$500  
3 for violations of state standards, the number and class of  
4 violations involved, the penalties imposed, and the current  
5 status of cases. The list shall be disseminated, at no charge,  
6 to the Department of Elderly Affairs, the Department of Health  
7 and Rehabilitative Services, the area agencies on aging, the  
8 Statewide Human Rights Advocacy Council ~~Committee~~, and the  
9 state and district nursing home and long-term care facility  
10 ombudsman councils. The agency may charge a fee commensurate  
11 with the cost of printing and postage to other interested  
12 parties requesting a copy of this list.

13           Section 14. Subsection (2) of section 400.428, Florida  
14 Statutes, is amended to read:

15           400.428 Resident bill of rights.--

16           (2) The administrator of a facility shall ensure that  
17 a written notice of the rights, obligations, and prohibitions  
18 set forth in this part is posted in a prominent place in each  
19 facility and read or explained to residents who cannot read.  
20 This notice shall include the name, address, and telephone  
21 numbers of the district ombudsman council and adult abuse  
22 registry and, when applicable, the Advocacy Center for Persons  
23 with Disabilities, Inc., and the local ~~district~~ human rights  
24 advocacy council ~~committee~~, where complaints may be lodged.  
25 The facility must ensure a resident's access to a telephone to  
26 call the district ombudsman council, adult abuse registry,  
27 Advocacy Center for Persons with Disabilities, Inc., and local  
28 ~~district~~ human rights advocacy council ~~committee~~.

29           Section 15. Paragraph (a) of subsection (1) of section  
30 415.1034, Florida Statutes, is amended to read:

31

1           415.1034 Mandatory reporting of abuse, neglect, or  
2 exploitation of disabled adults or elderly persons; mandatory  
3 reports of death.--  
4           (1) MANDATORY REPORTING.--  
5           (a) Any person, including, but not limited to, any:  
6           1. Physician, osteopath, medical examiner,  
7 chiropractor, nurse, or hospital personnel engaged in the  
8 admission, examination, care, or treatment of disabled adults  
9 or elderly persons;  
10          2. Health professional or mental health professional  
11 other than one listed in subparagraph 1.;  
12          3. Practitioner who relies solely on spiritual means  
13 for healing;  
14          4. Nursing home staff; assisted living facility staff;  
15 adult day care center staff; adult family-care home staff;  
16 social worker; or other professional adult care, residential,  
17 or institutional staff;  
18          5. State, county, or municipal criminal justice  
19 employee or law enforcement officer;  
20          6. Human rights advocacy council member ~~committee~~ or  
21 long-term care ombudsman council member; or  
22          7. Bank, savings and loan, or credit union officer,  
23 trustee, or employee,  
24  
25 who knows, or has reasonable cause to suspect, that a disabled  
26 adult or an elderly person has been or is being abused,  
27 neglected, or exploited shall immediately report such  
28 knowledge or suspicion to the central abuse registry and  
29 tracking system on the single statewide toll-free telephone  
30 number.  
31

1           Section 16. Subsection (1) of section 415.104, Florida  
2 Statutes, is amended to read:

3           415.104 Protective services investigations of cases of  
4 abuse, neglect, or exploitation of aged persons or disabled  
5 adults; transmittal of records to state attorney.--

6           (1) The department shall, upon receipt of a report  
7 alleging abuse, neglect, or exploitation of an aged person or  
8 disabled adult, commence, or cause to be commenced within 24  
9 hours, a protective services investigation of the facts  
10 alleged therein. If, upon arrival of the protective  
11 investigator at the scene of the incident, a caregiver refuses  
12 to allow the department to begin a protective services  
13 investigation or interferes with the department's ability to  
14 conduct such an investigation, the appropriate law enforcement  
15 agency shall be contacted to assist the department in  
16 commencing the protective services investigation. If, during  
17 the course of the investigation, the department has reason to  
18 believe that the abuse, neglect, or exploitation is  
19 perpetrated by a second party, the appropriate criminal  
20 justice agency and state attorney shall be orally notified in  
21 order that such agencies may begin a criminal investigation  
22 concurrent with the protective services investigation of the  
23 department. In an institutional investigation, the alleged  
24 perpetrator may be represented by an attorney, at his or her  
25 own expense, or accompanied by another person, if the person  
26 or the attorney executes an affidavit of understanding with  
27 the department and agrees to comply with the confidentiality  
28 provisions of s. 415.107. The absence of an attorney or other  
29 person does not prevent the department from proceeding with  
30 other aspects of the investigation, including interviews with  
31 other persons. The department shall make a preliminary

1 written report to the criminal justice agencies within 5  
2 working days after the oral report. The department shall,  
3 within 24 hours after receipt of the report, notify the  
4 appropriate human rights advocacy council ~~committee~~, or  
5 long-term care ombudsman council, when appropriate, that an  
6 alleged abuse, neglect, or exploitation perpetrated by a  
7 second party has occurred. Notice to the human rights  
8 advocacy council ~~committee~~ or long-term care ombudsman council  
9 may be accomplished orally or in writing and shall include the  
10 name and location of the aged person or disabled adult alleged  
11 to have been abused, neglected, or exploited and the nature of  
12 the report. For each report it receives, the department shall  
13 perform an onsite investigation to:

14 (a) Determine that the person is an aged person or  
15 disabled adult as defined in s. 415.102.

16 (b) Determine the composition of the family or  
17 household, including the name, address, date of birth, social  
18 security number, sex, and race of each aged person or disabled  
19 adult named in the report; any others in the household or in  
20 the care of the caregiver, or any other persons responsible  
21 for the aged person's or disabled adult's welfare; and any  
22 other adults in the same household.

23 (c) Determine whether there is an indication that any  
24 aged person or disabled adult is abused, neglected, or  
25 exploited, including a determination of harm or threatened  
26 harm to any aged person or disabled adult; the nature and  
27 extent of present or prior injuries, abuse, or neglect, and  
28 any evidence thereof; and a determination as to the person or  
29 persons apparently responsible for the abuse, neglect, or  
30 exploitation, including the name, address, date of birth,  
31 social security number, sex, and race of each person to be



1 classified as an alleged perpetrator in a proposed confirmed  
2 report. An alleged perpetrator named in a proposed confirmed  
3 report of abuse, neglect, or exploitation shall cooperate in  
4 the provision of the required data for the central abuse  
5 registry and tracking system to the fullest extent possible.

6 (d) Determine the immediate and long-term risk to each  
7 aged person or disabled adult through utilization of  
8 standardized risk assessment instruments.

9 (e) Determine the protective, treatment, and  
10 ameliorative services necessary to safeguard and ensure the  
11 aged person's or disabled adult's well-being and cause the  
12 delivery of those services through the early intervention of  
13 the departmental worker responsible for service provision and  
14 management of identified services.

15 Section 17. Paragraphs (a) and (i) of subsection (1)  
16 of section 415.1055, Florida Statutes, are amended to read:

17 415.1055 Notification to administrative entities,  
18 subjects, and reporters; notification to law enforcement and  
19 state attorneys.--

20 (1) NOTIFICATION TO ADMINISTRATIVE ENTITIES.--

21 (a) The department shall, within 24 hours after  
22 receipt of a report of abuse, neglect, or exploitation of a  
23 disabled adult or an elderly person within a facility,  
24 excluding Saturdays, Sundays, and legal holidays, notify the  
25 appropriate human rights advocacy council ~~committee~~ and the  
26 long-term care ombudsman council, in writing, that the  
27 department has reasonable cause to believe that a disabled  
28 adult or an elderly person has been abused, neglected, or  
29 exploited at the facility.

30 (i) At the conclusion of a protective investigation at  
31 a facility, the department shall notify either the human

1 rights advocacy council ~~committee~~ or long-term care ombudsman  
2 council of the results of the investigation. This  
3 notification must be in writing.

4 Section 18. Subsection (2) of section 415.106, Florida  
5 Statutes, is amended to read:

6 415.106 Cooperation by the department and criminal  
7 justice and other agencies.--

8 (2) To ensure coordination, communication, and  
9 cooperation with the investigation of abuse, neglect, or  
10 exploitation of disabled adults or elderly persons, the  
11 department shall develop and maintain interprogram agreements  
12 or operational procedures among appropriate departmental  
13 programs and the State Long-Term Care Ombudsman Council, the  
14 Statewide Human Rights Advocacy Council ~~Committee~~, and other  
15 agencies that provide services to disabled adults or elderly  
16 persons. These agreements or procedures must cover such  
17 subjects as the appropriate roles and responsibilities of the  
18 department in identifying and responding to reports of abuse,  
19 neglect, or exploitation of disabled adults or elderly  
20 persons; the provision of services; and related coordinated  
21 activities.

22 Section 19. Paragraph (g) of subsection (2) of section  
23 415.107, Florida Statutes, 1996 Supplement, is amended to  
24 read:

25 415.107 Confidentiality of reports and records.--

26 (2) Access to all records, excluding the name of the  
27 reporter which shall be released only as provided in  
28 subsection (6), shall be granted only to the following  
29 persons, officials, and agencies:

30 (g) Any appropriate official of the human rights  
31 advocacy council ~~committee~~ or long-term care ombudsman council

1 investigating a report of known or suspected abuse, neglect,  
2 or exploitation of a disabled adult or an elderly person.

3 Section 20. Paragraph (a) of subsection (2) of section  
4 415.501, Florida Statutes, is amended to read:

5 415.501 Prevention of abuse and neglect of children;  
6 state plan.--

7 (2) PLAN FOR COMPREHENSIVE APPROACH.--

8 (a) The Department of Health and Rehabilitative  
9 Services shall develop a state plan for the prevention of  
10 abuse and neglect of children and shall submit the plan to the  
11 Speaker of the House of Representatives, the President of the  
12 Senate, and the Governor no later than January 1, 1983. The  
13 Department of Education shall participate and fully cooperate  
14 in the development of the state plan at both the state and  
15 local levels. Furthermore, appropriate local agencies and  
16 organizations shall be provided an opportunity to participate  
17 in the development of the state plan at the local level.  
18 Appropriate local groups and organizations shall include, but  
19 not be limited to, community mental health centers; guardian  
20 ad litem programs for children under the circuit court; the  
21 school boards of the local school districts; the local  
22 ~~district~~ human rights advocacy councils ~~committees~~; private or  
23 public organizations or programs with recognized expertise in  
24 working with children who are sexually abused, physically  
25 abused, emotionally abused, or neglected and with expertise in  
26 working with the families of such children; private or public  
27 programs or organizations with expertise in maternal and  
28 infant health care; multidisciplinary child protection teams;  
29 child day care centers; law enforcement agencies, and the  
30 circuit courts, when guardian ad litem programs are not  
31 available in the local area. The state plan to be provided to

1 the Legislature and the Governor shall include, as a minimum,  
2 the information required of the various groups in paragraph  
3 (b).

4 Section 21. Paragraph (d) of subsection (2) of section  
5 415.505, Florida Statutes, 1996 Supplement, is amended to  
6 read:

7 415.505 Child protective investigations; institutional  
8 child abuse or neglect investigations.--

9 (2)

10 (d) The department shall notify the human rights  
11 advocacy council ~~committee~~ in the appropriate district of the  
12 department as to every report of institutional child abuse or  
13 neglect in the district in which a client of the department is  
14 alleged or shown to have been abused or neglected, which  
15 notification shall be made within 48 hours of the time the  
16 department commences its investigation.

17 Section 22. Paragraph (k) of subsection (2) of section  
18 415.51, Florida Statutes, 1996 Supplement, is amended to read:

19 415.51 Confidentiality of reports and records in cases  
20 of child abuse or neglect.--

21 (2) Access to such records, excluding the name of the  
22 reporter which shall be released only as provided in  
23 subsection (9), shall be granted only to the following  
24 persons, officials, and agencies:

25 (k) Any appropriate official of the human rights  
26 advocacy council ~~committee~~ investigating a report of known or  
27 suspected child abuse, abandonment, or neglect, the Auditor  
28 General for the purpose of conducting preliminary or  
29 compliance reviews pursuant to s. 11.45, or the guardian ad  
30 litem for the child as defined in s. 415.503.

31 Section 23. This act shall take effect July 1, 1997.

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LEGISLATIVE SUMMARY

Renames the Statewide Human Rights Advocacy Committee and the district human rights advocacy committees as the Statewide Human Rights Advocacy Council and the local human rights advocacy councils, respectively. Provides for the statewide council and local councils to monitor and investigate allegations of abuse of human or constitutional rights by the Department of Children and Family Services. Revises the membership of the statewide council. Provides for the establishment of additional local human rights advocacy councils.