

By Senator Forman

32-42-98

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 and the Agency for Health Care Administration;
14 amending s. 402.166, F.S.; revising the duties
15 of the district human rights advocacy
16 committees to conform to the expanded duties of
17 the statewide committee; amending s. 402.167,
18 F.S.; providing rulemaking authority to the
19 state agencies subject to investigation by the
20 human rights advocacy committees; providing an
21 effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Section 402.164, Florida Statutes, is
26 created to read:

27 402.164 Legislative intent; definition.--
28 (1)(a) It is the intent of the Legislature to use
29 citizen volunteers as members of the Statewide Human Rights
30 Advocacy Committee and the district human rights advocacy
31 committees, and to have volunteers operate a network of

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

6 (b) It is the further intent of the Legislature that
7 the monitoring and investigation shall safeguard the health,
8 safety, and welfare of consumers of services provided by these
9 state agencies.

10 (2) As used in ss. 402.164-402.167, the term "state
11 agencies" means the Department of Children and Family
12 Services, the Department of Health, and the Agency for Health
13 Care Administration.

14 Section 2. Section 402.165, Florida Statutes, is
15 amended to read:

16 402.165 Statewide Human Rights Advocacy Committee;
17 confidential records and meetings.--

18 (1) There is created within the Department of Children
19 and Family ~~Health and Rehabilitative~~ Services a Statewide
20 Human Rights Advocacy Committee. The Department of Children
21 and Family ~~Health and Rehabilitative~~ Services shall provide
22 administrative support and service to the committee to the
23 extent requested by the executive director within available
24 resources. The Statewide Human Rights Advocacy Committee is
25 ~~shall not be~~ subject to control, supervision, or direction by
26 the Department of Children and Family ~~Health and~~
27 ~~Rehabilitative~~ Services in the performance of its duties. The
28 committee shall consist of 15 citizens, one from each service
29 district of the Department of Children and Family ~~Health and~~
30 ~~Rehabilitative~~ Services, who broadly represent the interests
31 of the public and the clients of one of the state agencies

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

28 (2) Members of the Statewide Human Rights Advocacy
29 Committee shall be appointed to serve terms of 3 years. A
30 member may not serve more than two consecutive terms. The
31 limitation on the number of terms a member may serve applies

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

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

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

30 (5)(a) Members of the Statewide Human Rights Advocacy
31 Committee shall receive no compensation, but are ~~shall be~~

1 entitled to be reimbursed for per diem and travel expenses in
2 accordance with s. 112.061.

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

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

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

24 (6) The members of the Statewide Human Rights Advocacy
25 Committee shall elect a chairperson to a term of 1 year. A
26 person may not serve as chairperson for more than two
27 consecutive terms.

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

30 (a) Serving as an independent third-party mechanism
31 for protecting the constitutional and human rights of clients

1 ~~any client~~ within programs ~~a program~~ or facilities ~~facility~~
2 operated, funded, licensed, or regulated by any of the state
3 agencies ~~the Department of Health and Rehabilitative Services.~~

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

22 (c) Receiving, investigating, and resolving reports of
23 abuse or deprivation of constitutional and human rights
24 referred to the Statewide Human Rights Advocacy Committee by a
25 district human rights advocacy committee. If a matter
26 constitutes a threat to the life, safety, or health of clients
27 or is multidistrict in scope, the Statewide Human Rights
28 Advocacy Committee may exercise such powers without the
29 necessity of a referral from a district committee.

30 (d) Reviewing existing programs or services and new or
31 revised programs of the state agencies ~~Department of Health~~

1 ~~and Rehabilitative Services~~ and making recommendations as to
2 how the rights of clients are affected.

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

7 (f) Conducting meetings at least six times a year at
8 the call of the chairperson and at other times at the call of
9 the Governor or by written request of six members of the
10 committee.

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

15 1. The responsibilities of the committee;

16 2. The organization and operation of the statewide
17 committee and district committees, including procedures for
18 replacing a member, formats for maintaining records of
19 committee activities, and criteria for determining what
20 constitutes a conflict of interest for purposes of assigning
21 and conducting investigations and monitoring;

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

25 4. The responsibilities and relationship of the
26 district human rights advocacy committees to the statewide
27 committee;

28 5. The relationship of the committee to the state
29 agencies that receive, investigate, and report abuse and
30 neglect of children or adults ~~Department of Health and~~
31 ~~Rehabilitative Services~~, including the way in which reports of

1 findings and recommendations related to reported abuse are
2 given to the appropriate state agency ~~Department of Health and~~
3 ~~Rehabilitative Services~~;

4 6. Provision for cooperation with the State Long-Term
5 Care Ombudsman Council;

6 7. Procedures for appeal. An appeal to the state
7 committee is made by a district human rights advocacy
8 committee when a valid complaint is not resolved at the
9 district level. The statewide committee may appeal an
10 unresolved complaint to the secretary or director of the
11 appropriate state agency ~~Department of Health and~~
12 ~~Rehabilitative Services~~. If, after exhausting all remedies,
13 the statewide committee is not satisfied that the complaint
14 can be resolved within the state agency ~~Department of Health~~
15 ~~and Rehabilitative Services~~, the appeal may be referred to the
16 Governor or the Legislature;

17 8. Uniform procedures for gaining access to and
18 maintaining confidential information; and

19 9. Definitions of misfeasance and malfeasance for
20 members of the statewide committee and district committees.

21 (h) Monitoring the performance and activities of all
22 district committees and providing technical assistance to
23 members and staff of district committees.

24 (i) Providing for the development and presentation of
25 a standardized training program for members of district
26 committees.

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

29 1. Authority to receive, investigate, seek to
30 conciliate, hold hearings on, and act on complaints that ~~which~~
31

1 allege any abuse or deprivation of constitutional or human
2 rights of clients.

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

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

1 ~~provisions of~~ ss. 39.411, 63.022, and 63.162. Upon completion
2 of a general investigation of practices and procedures of any
3 of the state agencies ~~the Department of Health and~~
4 ~~Rehabilitative Services~~, the committee shall report its
5 findings to that agency ~~department~~.

6 (b) All information obtained or produced by the
7 committee which is made confidential by law, which relates to
8 the identity of any client or group of clients subject to the
9 protections of this section, or which relates to the identity
10 of an individual who provides information to the committee
11 about abuse or alleged violations of constitutional or human
12 rights, is confidential and exempt from ~~the provisions of~~ s.
13 119.07(1) and s. 24(a), Art. I of the State Constitution.

14 (c) Portions of meetings of the Statewide Human Rights
15 Advocacy Committee which relate to the identity of any client
16 or group of clients subject to the protections of this
17 section, which relate to the identity of an individual who
18 provides information to the committee about abuse or alleged
19 violations of constitutional or human rights, or wherein
20 testimony is provided relating to records otherwise made
21 confidential by law, are exempt from ~~the provisions of~~ s.
22 286.011 and s. 24(b), Art. I of the State Constitution.

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

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

6 (e) Any person who knowingly and willfully discloses
7 any such confidential information commits ~~is guilty of~~ a
8 misdemeanor of the second degree, punishable as provided in s.
9 775.082 or s. 775.083.

10 Section 3. Section 402.166, Florida Statutes, is
11 amended to read:

12 402.166 District human rights advocacy committees;
13 confidential records and meetings.--

14 (1) At least one district human rights advocacy
15 committee is created in each service district of the
16 Department of Children and Family ~~Health and Rehabilitative~~
17 Services. The district human rights advocacy committees shall
18 be subject to direction from and the supervision of the
19 Statewide Human Rights Advocacy Committee. The district
20 administrator shall assign staff to provide administrative
21 support to the committees, and staff assigned to these
22 positions shall perform the functions required by the
23 committee without interference from the department. The
24 district committees shall direct the activities of staff
25 assigned to them to the extent necessary for the committees to
26 carry out their duties. The number and areas of
27 responsibility of the district human rights advocacy
28 committees, not to exceed three in any district, shall be
29 determined by the majority vote of district committee members.
30 However, district 2 ~~11~~ may have four committees. District
31

1 committees shall meet at facilities under their jurisdiction
2 whenever possible.

3 (2) Each district human rights advocacy committee
4 shall have no fewer than 7 members and no more than 15
5 members, 25 percent of whom are or have been clients of
6 services provided by one or more of the state agencies ~~the~~
7 ~~Department of Health and Rehabilitative Services~~ within the
8 last 4 years, except that one member of this group may be an
9 immediate relative or legal representative of a current or
10 former client; two providers, who deliver services or programs
11 to clients of services provided by one or more of the state
12 agencies ~~the Department of Health and Rehabilitative Services;~~
13 and two representatives of professional organizations, one of
14 whom represents health-related professions and one of whom
15 represents the legal profession. Priority of consideration
16 shall be given to the appointment of at least one medical or
17 osteopathic physician, as defined in chapters 458 and 459, and
18 one member in good standing of The Florida Bar. Priority of
19 consideration shall also be given to the appointment of an
20 individual whose primary interest, experience, or expertise
21 lies with a major client group ~~of the Department of Health and~~
22 ~~Rehabilitative Services~~ not represented on the committee at
23 the time of the appointment. ~~In no case shall~~ A person who is
24 employed by one of the state agencies may not ~~the Department~~
25 ~~of Health and Rehabilitative Services~~ be selected as a member
26 of a committee. ~~At no time shall~~ Individuals who provide ~~are~~
27 ~~providing~~ contracted services to any of the state agencies may
28 not ~~the Department of Health and Rehabilitative Services~~
29 constitute more than 25 percent of the membership of a
30 district committee. Persons related to each other by
31 consanguinity or affinity within the third degree may ~~shall~~

1 not serve on the same district human rights advocacy committee
2 at the same time. All members of district human rights
3 advocacy committees must successfully complete a standardized
4 training course for committee members within 3 months after
5 their appointment to a committee. A member may not be
6 assigned an investigation that ~~which~~ requires access to
7 confidential information prior to the completion of the
8 training course. After he or she completes the required
9 training course, a member of a committee may ~~shall~~ not be
10 prevented from participating in any activity of that
11 committee, including investigations and monitoring, except due
12 to a conflict of interest as described in the procedures
13 established by the Statewide Human Rights Advocacy Committee
14 pursuant to subsection (7).

15 (3)(a) With respect to existing committees, each
16 member shall serve a term of 4 years. Upon expiration of a
17 term and in the case of any other vacancy, the district
18 committee shall appoint a replacement by majority vote of the
19 committee, subject to the approval of the Governor. A member
20 may serve no more than two consecutive terms.

21 (b)1. The Governor shall appoint the first 4 members
22 of any newly created committee; and those 4 members shall
23 select the remaining 11 members, subject to approval of the
24 Governor. If any of the first four members are not appointed
25 within 60 days after ~~of~~ a request is ~~being~~ submitted to the
26 Governor, those members shall be appointed by a majority vote
27 of the district committee without further action by the
28 Governor.

29 2. Members shall serve for no more than two
30 consecutive terms of 3 years, except that at the time of
31 initial appointment, terms shall be staggered so that the

1 first six members appointed serve for terms of 2 years and the
2 remaining five members serve for terms of 3 years. Vacancies
3 shall be filled as provided in subparagraph 1.

4 (c) If no action is taken by the Governor to approve
5 or disapprove a replacement of a member pursuant to this
6 paragraph within 30 days after the district committee has
7 notified the Governor of the appointment, then the appointment
8 of the replacement shall be considered approved.

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

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

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

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

31

1 (7) A district human rights advocacy committee shall
2 first seek to resolve a complaint with the appropriate local
3 administration, agency, or program; any matter not resolved by
4 the district committee shall be referred to the Statewide
5 Human Rights Advocacy Committee. A district human rights
6 advocacy committee shall comply with appeal procedures
7 established by the Statewide Human Rights Advocacy Committee.
8 The duties, actions, and procedures of both new and existing
9 district human rights advocacy committees shall conform to the
10 provisions of ss. 402.164-402.167 ~~this act~~. The duties of
11 each district human rights advocacy committee ~~shall~~ include,
12 but are not limited to:

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

18 (b) Monitoring, by site visit and inspection of
19 records, the delivery and use of services, programs, or
20 facilities operated, funded, regulated, or licensed by any of
21 the state agencies ~~the Department of Health and Rehabilitative~~
22 ~~Services~~ for the purpose of preventing abuse or deprivation of
23 the constitutional and human rights of clients. A district
24 human rights advocacy committee may conduct an unannounced
25 site visit or monitoring visit that involves the inspection of
26 records if such visit is conditioned upon a complaint. A
27 complaint may be generated by the committee itself if
28 information from any of the state agencies ~~the Department of~~
29 ~~Health and Rehabilitative Services~~ or other sources indicates
30 a situation at the program or facility which ~~that~~ indicates
31 possible abuse or neglect of clients. The district human

1 rights advocacy committees shall follow uniform criteria
2 established by the Statewide Human Rights Advocacy Committee
3 for the review of information and generation of complaints.
4 Routine program monitoring and reviews that do not require an
5 examination of records may be made unannounced.

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

8 (d) Reviewing and making recommendation with respect
9 to the involvement by clients of any of the state agencies ~~the~~
10 ~~Department of Health and Rehabilitative Services~~ as subjects
11 for research projects, prior to implementation, insofar as
12 their human rights are affected.

13 (e) Reviewing existing programs or services and new or
14 revised programs of the state agencies ~~Department of Health~~
15 ~~and Rehabilitative Services~~ and making recommendations as to
16 how the rights of clients are affected.

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

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

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

31

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

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

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

1 of a general investigation of practices and procedures of the
2 state agency ~~Department of Health and Rehabilitative Services,~~
3 the committee shall report its findings to the appropriate
4 state agency ~~that department.~~

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

13 (c) Portions of meetings of a district human rights
14 advocacy committee which relate to the identity of any client
15 or group of clients subject to the protections of this
16 section, which relate to the identity of an individual who
17 provides information to the committee about abuse or alleged
18 violations of constitutional or human rights, or wherein
19 testimony is provided relating to records otherwise made
20 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 the committee
23 which reflect a mental impression, investigative strategy, or
24 theory are exempt from ~~the provisions of s. 119.07(1) and s.~~
25 24(a), Art. I of the State Constitution until the
26 investigation is completed or until the investigation ceases
27 to be active. For purposes of this section, an investigation
28 is considered "active" while such investigation is being
29 conducted by the committee with a reasonable, good faith
30 belief that it may lead to a finding of abuse or of a
31 violation of human rights. An investigation does not cease to

1 be active so long as the committee is proceeding with
2 reasonable dispatch and there is a good faith belief that
3 action may be initiated by the committee or other
4 administrative or law enforcement agency.

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

9 Section 4. Section 402.167, Florida Statutes, is
10 amended to read:

11 402.167 ~~Department~~ Duties of the state agencies
12 relating to the Statewide Human Rights Advocacy Committee and
13 the District Human Rights Advocacy Committees.--

14 (1) The state agencies ~~Department of Health and~~
15 ~~Rehabilitative Services~~ shall each 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 Health and~~
19 ~~Rehabilitative Services~~ district staff of the state agencies
20 refer reports of abuse to district human rights advocacy
21 committees.

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

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

29 (d) Procedures by which committee members are
30 reimbursed for authorized expenditures.

31

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

8 (3) The secretaries or directors of the state agencies
9 ~~secretary~~ shall ensure the full cooperation and assistance of
10 employees of their respective state agencies ~~the Department of~~
11 ~~Health and Rehabilitative Services~~ with members and staff of
12 the human rights advocacy committees. Further, the secretaries
13 or directors of the state agencies ~~secretary~~ shall ensure
14 that, to the extent possible, staff assigned to the Statewide
15 Human Rights Advocacy Committees and District Human Rights
16 Advocacy Committees are free of interference from or control
17 by any of the state agencies ~~the department~~ in performing
18 their duties relative to those committees.

19 Section 5. This act shall take effect July 1, 1998.

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22 SENATE SUMMARY

23 Expands the duties of the Statewide Human Rights Advocacy
24 Committee and the district human rights advocacy
25 committees to require that the committees monitor and
26 investigate allegations of abuse of human or
27 constitutional rights by the Department of Children and
28 Family Services, the Department of Health, and the Agency
29 for Health Care Administration. Provides rulemaking
30 authority for the state agencies that are subject to
31 investigation by the statewide committee and the district
 committees.