

By Senator Forman

32-43-98

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:
31

1 Section 1. Section 402.165, Florida Statutes, is
2 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, 1998.
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~~.

31

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.

31

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 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 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, is
25 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 health
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 3 years. Vacancies
23 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.

30
31

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, are
20 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, are
14 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, is
17 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, is amended to read:

26 394.4597 Persons to be notified; patient's
27 representative.--

28 (2) INVOLUNTARY PATIENTS.--

29 (d) When the receiving or treatment facility selects a
30 representative, first preference shall be given to a health
31 care surrogate, if one has been previously selected by the

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

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

11 ~~committee~~ as provided in s. 402.166.

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

14 394.4598 Guardian advocate.--

15 (1) The administrator may petition the court for the
16 appointment of a guardian advocate based upon the opinion of a
17 psychiatrist that the patient is incompetent to consent to
18 treatment. If the court finds that a patient is incompetent to
19 consent to treatment and has not been adjudicated
20 incapacitated and a guardian with the authority to consent to
21 mental health treatment appointed, it shall appoint a guardian
22 advocate. The patient has the right to have an attorney
23 represent him or her at the hearing. If the person is
24 indigent, the court shall appoint the office of the public
25 defender to represent him or her at the hearing. The patient
26 has the right to testify, cross-examine witnesses, and present
27 witnesses. The proceeding shall be recorded either
28 electronically or stenographically, and testimony shall be
29 provided under oath. One of the professionals authorized to
30 give an opinion in support of a petition for involuntary
31 placement, as described in s. 394.467(2), must testify. A

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

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

11 394.4599 Notice.--

12 (2) INVOLUNTARY PATIENTS.--

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

24 Section 10. Subsection (5) of section 394.4615,
25 Florida Statutes, is amended to read:

26 394.4615 Clinical records; confidentiality.--

27 (5) Information from clinical records may be used by
28 the Agency for Health Care Administration, the department, and
29 the human rights advocacy councils ~~committees~~ for the purpose
30 of monitoring facility activity and complaints concerning
31 facilities.

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

3 400.0067 Establishment of State Long-Term Care
4 Ombudsman Council; duties; membership.--

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

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

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

12 400.0089 Agency reports.--The State Long-Term Care
13 Ombudsman Council, shall, in cooperation with the Department
14 of Elderly Affairs, maintain a statewide uniform reporting
15 system to collect and analyze data relating to complaints and
16 conditions in long-term care facilities and to residents, for
17 the purpose of identifying and resolving significant problems.
18 The council shall submit such data as part of its annual
19 report required pursuant to s. 400.0067(2)(h) to the Agency
20 for Health Care Administration, the Department of Health and
21 Rehabilitative Services, the Statewide Human Rights Advocacy
22 Council ~~Committee~~, the Advocacy Center for Persons with
23 Disabilities, the Commissioner for the United States
24 Administration on Aging, the National Ombudsman Resource
25 Center, and any other state or federal entities that the
26 ombudsman determines appropriate.

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

29 400.419 Violations; penalties.--

30 (6) The agency shall develop and disseminate an annual
31 list of all facilities sanctioned or fined in excess of \$500

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

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

13 400.428 Resident bill of rights.--

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

27 Section 15. Paragraph (a) of subsection (1) of section
28 415.1034, Florida Statutes, is amended to read:

29 415.1034 Mandatory reporting of abuse, neglect, or
30 exploitation of disabled adults or elderly persons; mandatory
31 reports of death.--

1 (1) MANDATORY REPORTING.--
2 (a) Any person, including, but not limited to, any:
3 1. Physician, osteopathic physician, medical examiner,
4 chiropractor, nurse, or hospital personnel engaged in the
5 admission, examination, care, or treatment of disabled adults
6 or elderly persons;
7 2. Health professional or mental health professional
8 other than one listed in subparagraph 1.;
9 3. Practitioner who relies solely on spiritual means
10 for healing;
11 4. Nursing home staff; assisted living facility staff;
12 adult day care center staff; adult family-care home staff;
13 social worker; or other professional adult care, residential,
14 or institutional staff;
15 5. State, county, or municipal criminal justice
16 employee or law enforcement officer;
17 6. Human rights advocacy council member ~~committee~~ or
18 long-term care ombudsman council member; or
19 7. Bank, savings and loan, or credit union officer,
20 trustee, or employee,
21
22 who knows, or has reasonable cause to suspect, that a disabled
23 adult or an elderly person has been or is being abused,
24 neglected, or exploited shall immediately report such
25 knowledge or suspicion to the central abuse registry and
26 tracking system on the single statewide toll-free telephone
27 number.
28 Section 16. Subsection (1) of section 415.104, Florida
29 Statutes, is amended to read:
30
31

1 415.104 Protective services investigations of cases of
2 abuse, neglect, or exploitation of aged persons or disabled
3 adults; transmittal of records to state attorney.--

4 (1) The department shall, upon receipt of a report
5 alleging abuse, neglect, or exploitation of an aged person or
6 disabled adult, commence, or cause to be commenced within 24
7 hours, a protective services investigation of the facts
8 alleged therein. If, upon arrival of the protective
9 investigator at the scene of the incident, a caregiver refuses
10 to allow the department to begin a protective services
11 investigation or interferes with the department's ability to
12 conduct such an investigation, the appropriate law enforcement
13 agency shall be contacted to assist the department in
14 commencing the protective services investigation. If, during
15 the course of the investigation, the department has reason to
16 believe that the abuse, neglect, or exploitation is
17 perpetrated by a second party, the appropriate criminal
18 justice agency and state attorney shall be orally notified in
19 order that such agencies may begin a criminal investigation
20 concurrent with the protective services investigation of the
21 department. In an institutional investigation, the alleged
22 perpetrator may be represented by an attorney, at his or her
23 own expense, or accompanied by another person, if the person
24 or the attorney executes an affidavit of understanding with
25 the department and agrees to comply with the confidentiality
26 provisions of s. 415.107. The absence of an attorney or other
27 person does not prevent the department from proceeding with
28 other aspects of the investigation, including interviews with
29 other persons. The department shall make a preliminary
30 written report to the criminal justice agencies within 5
31 working days after the oral report. The department shall,

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

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

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

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

1 report of abuse, neglect, or exploitation shall cooperate in
2 the provision of the required data for the central abuse
3 registry and tracking system to the fullest extent possible.

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

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

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

15 415.1055 Notification to administrative entities,
16 subjects, and reporters; notification to law enforcement and
17 state attorneys.--

18 (1) NOTIFICATION TO ADMINISTRATIVE ENTITIES.--

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

28 (i) At the conclusion of a protective investigation at
29 a facility, the department shall notify either the human
30 rights advocacy council ~~committee~~ or long-term care ombudsman
31

1 council of the results of the investigation. This
2 notification must be in writing.

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

5 415.106 Cooperation by the department and criminal
6 justice and other agencies.--

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

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

23 415.107 Confidentiality of reports and records.--

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

28 (g) Any appropriate official of the human rights
29 advocacy council ~~committee~~ or long-term care ombudsman council
30 investigating a report of known or suspected abuse, neglect,
31 or exploitation of a disabled adult or an elderly person.

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

3 415.501 Prevention of abuse and neglect of children;
4 state plan.--

5 (2) PLAN FOR COMPREHENSIVE APPROACH.--

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

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

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

5 415.505 Child protective investigations; institutional
6 child abuse or neglect investigations.--

7 (2)

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

15 Section 22. Paragraph (k) of subsection (2) of section
16 415.51, Florida Statutes, is amended to read:

17 415.51 Confidentiality of reports and records in cases
18 of child abuse or neglect.--

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

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

29 Section 23. This act shall take effect July 1, 1998.
30
31

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

SENATE 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.