

By Senators Forman, Mitchell and Campbell

32-439A-99

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 "client services" as used in  
8           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, state agencies that provide  
12          client services; amending s. 402.166, F.S.;  
13          revising the duties of the district human  
14          rights advocacy committees to conform to the  
15          expanded duties of the statewide committee;  
16          amending s. 402.167, F.S.; providing rulemaking  
17          authority to the state agencies subject to  
18          investigation by the human rights advocacy  
19          committees; providing an effective date.

20  
21 Be It Enacted by the Legislature of the State of Florida:

22  
23           Section 1. Section 402.164, Florida Statutes, is  
24 created to read:

25           402.164 Legislative intent; definition.--  
26           (1)(a) It is the intent of the Legislature to use  
27 citizen volunteers as members of the Statewide Human Rights  
28 Advocacy Committee and the district human rights advocacy  
29 committees, and to have volunteers operate a network of  
30 committees that shall, without interference by an executive  
31 agency, undertake to discover, monitor, investigate, and

1 determine the presence of conditions or individuals that  
2 constitute a threat to the rights, health, safety, or welfare  
3 of persons who receive services from state agencies.

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

8 (2) As used in ss. 402.164-402.167, the term "client  
9 services" means services or programs provided to individuals  
10 by state agencies under chapter 39, chapter 393, chapter 394,  
11 part III, part V, or part VIII of chapter 400, chapter 409,  
12 chapter 411, chapter 414, chapter 415, or chapter 916.

13 Section 2. Section 402.165, Florida Statutes, 1998  
14 Supplement, is amended to read:

15 402.165 Statewide Human Rights Advocacy Committee;  
16 confidential records and meetings.--

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

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

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

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 the ~~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 who are receiving one or more client services and  
21 are ~~of the Department of Health and Rehabilitative Services~~  
22 not represented on the committee at the time of the  
23 appointment. If an appointment is not made within 60 days  
24 after a vacancy occurs on the committee, the vacancy shall be  
25 filled by a majority vote of the statewide committee without  
26 further action by the Governor. A ~~No~~ person who is employed by  
27 any state agency that provides client services ~~the Department~~  
28 ~~of Health and Rehabilitative Services~~ may not be appointed to  
29 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 state agency  
3 that provides client services ~~the Department of Health and~~  
4 ~~Rehabilitative Services~~.

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

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

1           (d) Reviewing existing programs or services and new or  
2 revised programs of the state agencies that provide client  
3 services ~~Department of Health and Rehabilitative Services~~ and  
4 making recommendations as to how the rights of clients are  
5 affected.

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

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

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

18           1. The responsibilities of the committee;

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

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

28           4. The responsibilities and relationship of the  
29 district human rights advocacy committees to the statewide  
30 committee;

31

1           5. The relationship of the committee to the state  
2 agencies that receive and investigate reports of abuse and  
3 neglect of children or adults ~~Department of Health and~~  
4 ~~Rehabilitative Services~~, including the way in which reports of  
5 findings and recommendations related to reported abuse are  
6 given to the appropriate state agency that provides client  
7 services ~~Department of Health and Rehabilitative Services;~~

8           6. Provision for cooperation with the State Long-Term  
9 Care Ombudsman Council;

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

21           8. Uniform procedures for gaining access to and  
22 maintaining confidential information; and

23           9. Definitions of misfeasance and malfeasance for  
24 members of the statewide committee and district committees.

25           (h) Monitoring the performance and activities of all  
26 district committees and providing technical assistance to  
27 members and staff of district committees.

28           (i) Providing for the development and presentation of  
29 a standardized training program for members of district  
30 committees.

31



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

3           1. Authority to receive, investigate, seek to  
4 conciliate, hold hearings on, and act on complaints that ~~which~~  
5 allege any abuse or deprivation of constitutional or human  
6 rights of clients.

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

23           3. Standing to petition the circuit court for access  
24 to client records that ~~which~~ are confidential as specified by  
25 law. The petition must ~~shall~~ state the specific reasons for  
26 which the committee is seeking access and the intended use of  
27 such information. The court may authorize committee access to  
28 such records upon a finding that such access is directly  
29 related to an investigation regarding the possible deprivation  
30 of constitutional or human rights or the abuse of a client.  
31 Original client files, records, and reports may ~~shall~~ not be

1 removed from a state agency ~~the Department of Children and~~  
2 ~~Family Services~~ or agency facilities. ~~Under no circumstance~~  
3 ~~shall~~ The committee may not have access to confidential  
4 adoption records in accordance with ~~the provisions of~~ ss.  
5 39.0132, 63.022, and 63.162. Upon completion of a general  
6 investigation of practices and procedures of a state agency  
7 ~~the Department of Children and Family Services~~, the committee  
8 shall report its findings to that agency ~~department~~.

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

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

26 (d) All records prepared by members of the committee  
27 which reflect a mental impression, investigative strategy, or  
28 theory are exempt from ~~the provisions of~~ s. 119.07(1) and s.  
29 24(a), Art. I of the State Constitution until the  
30 investigation is completed or until the investigation ceases  
31 to be active. For purposes of this section, an investigation

1 is considered "active" while such investigation is being  
2 conducted by the committee with a reasonable, good faith  
3 belief that it may lead to a finding of abuse or of a  
4 violation of human rights. An investigation does not cease to  
5 be active so long as the committee is proceeding with  
6 reasonable dispatch and there is a good faith belief that  
7 action may be initiated by the committee or other  
8 administrative or law enforcement agency.

9 (e) Any person who knowingly and willfully discloses  
10 any such confidential information commits ~~is guilty of~~ a  
11 misdemeanor of the second degree, punishable as provided in s.  
12 775.082 or s. 775.083.

13 Section 3. Section 402.166, Florida Statutes, 1998  
14 Supplement, is amended to read:

15 402.166 District human rights advocacy committees;  
16 confidential records and meetings.--

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

1 determined by the majority vote of district committee members.  
2 However, district 2 ~~FF~~ may have four committees. District  
3 committees shall meet at facilities under their jurisdiction  
4 whenever possible.

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

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

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

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

31

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

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

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

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

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

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

1 to an investigation of an abuse or deprivation of human  
2 rights.

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

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

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

1 ~~Rehabilitative Services~~ or other sources indicates a situation  
2 at the program or facility which ~~that~~ indicates possible abuse  
3 or neglect of clients. The district human rights advocacy  
4 committees shall follow uniform criteria established by the  
5 Statewide Human Rights Advocacy Committee for the review of  
6 information and generation of complaints. Routine program  
7 monitoring and reviews that do not require an examination of  
8 records may be made unannounced.

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

11 (d) Reviewing and making recommendations regarding how  
12 a client's recommendation with respect to the involvement by  
13 clients of the Department of Health and Rehabilitative  
14 Services as subjects for research projects, prior to  
15 implementation, insofar as their human rights might be ~~are~~  
16 affected by the client's participation in a proposed research  
17 project, prior to implementation of the project.

18 (e) Reviewing existing ~~programs or services~~ and  
19 proposed new or revised programs of client services ~~the~~  
20 ~~Department of Health and Rehabilitative Services~~ and making  
21 recommendations as to how these programs affect the rights of  
22 clients ~~are affected~~.

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

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



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

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

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

24           2. Standing to petition the circuit court for access  
25 to client records that ~~which~~ are confidential as specified by  
26 law. The petition must ~~shall~~ state the specific reasons for  
27 which the committee is seeking access and the intended use of  
28 such information. The court may authorize committee access to  
29 such records upon a finding that such access is directly  
30 related to an investigation regarding the possible deprivation  
31 of constitutional or human rights or the abuse of a client.

1 Original client files, records, and reports may ~~shall~~ not be  
2 removed from a state agency ~~Department of Children and Family~~  
3 ~~Services~~ or agency facilities. ~~Upon no circumstances shall~~  
4 The committee may not have access to confidential adoption  
5 records, in accordance with ~~the provisions of~~ ss. 39.0132,  
6 63.022, and 63.162. Upon completion of a general investigation  
7 of practices and procedures followed by a state agency in  
8 providing client services ~~of the Department of Children and~~  
9 ~~Family Services~~, the committee shall report its findings to  
10 the appropriate state agency ~~that department~~.

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

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

28 (d) All records prepared by members of the committee  
29 which reflect a mental impression, investigative strategy, or  
30 theory are exempt from ~~the provisions of~~ s. 119.07(1) and s.  
31 24(a), Art. I of the State Constitution until the

1 investigation is completed or until the investigation ceases  
2 to be active. For purposes of this section, an investigation  
3 is considered "active" while such investigation is being  
4 conducted by the committee with a reasonable, good faith  
5 belief that it may lead to a finding of abuse or of a  
6 violation of human rights. An investigation does not cease to  
7 be active so long as the committee is proceeding with  
8 reasonable dispatch and there is a good faith belief that  
9 action may be initiated by the committee or other  
10 administrative or law enforcement agency.

11 (e) Any person who knowingly and willfully discloses  
12 any such confidential information commits ~~is guilty of~~ a  
13 misdemeanor of the second degree, punishable as provided in s.  
14 775.082 or s. 775.083.

15 Section 4. Section 402.167, Florida Statutes, is  
16 amended to read:

17 402.167 ~~Department~~ Duties of the state agencies that  
18 provide client services relating to the Statewide Human Rights  
19 Advocacy Committee and the District Human Rights Advocacy  
20 Committees.--

21 (1) Each state agency that provides client services  
22 ~~The Department of Health and Rehabilitative Services~~ shall  
23 adopt rules that ~~which~~ are consistent with law, amended to  
24 reflect any statutory changes, and that ~~which rules~~ address at  
25 least the following:

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

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

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

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

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

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

29 Section 5. This act shall take effect July 1, 1999.  
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SENATE SUMMARY

Expands the duties of the Statewide Human Rights Advocacy Committee and the district human rights advocacy committees to require that the committees monitor and investigate allegations of abuse of human or constitutional rights by state agencies that provide client services under ch. 39, ch. 393, ch. 394, ch. 400, ch. 409, ch. 411, ch. 414, ch. 415, or ch. 916, F.S. Provides rulemaking authority for the state agencies that are subject to investigation by the statewide committee and the district committees.