

By Representative Littlefield

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 terms "client" and "client  
8           services" as used in ss. 402.164-402.167, F.S.;  
9           amending s. 402.165, F.S.; providing for the  
10          Statewide Human Rights Advocacy Committee to  
11          monitor the activities of, and investigate  
12          complaints against, state agencies that provide  
13          client services; amending s. 402.166, F.S.;  
14          revising the duties of the district human  
15          rights advocacy committees to conform to the  
16          expanded duties of the statewide committee;  
17          amending s. 402.167, F.S.; providing rulemaking  
18          authority to the state agencies subject to  
19          investigation by the human rights advocacy  
20          committees; providing an effective date.

21  
22   Be It Enacted by the Legislature of the State of Florida:  
23

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

26           402.164 Legislative intent; definition.--

27           (1)(a) It is the intent of the Legislature to use  
28   citizen volunteers as members of the Statewide Human Rights  
29   Advocacy Committee and the district human rights advocacy  
30   committees, and to have volunteers operate a network of  
31   committees that shall, without interference by an executive

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

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

9 (2) As used in ss. 402.164-402.167 the term:

10 (a) "Client" means a recipient of one or more of the  
11 services provided to individuals described in chapter 39,  
12 chapter 393, chapter 394, chapter 397, part III, part V, or  
13 part VIII of chapter 400, chapter 409, chapter 411, chapter  
14 414, chapter 415, or chapter 916, which services are provided  
15 by a state agency or a service provider regulated, funded, or  
16 licensed by a state agency.

17 (b) "Client services" means services or programs  
18 provided to a client.

19 Section 2. Section 402.165, Florida Statutes, 1998  
20 Supplement, is amended to read:

21 402.165 Statewide Human Rights Advocacy Committee;  
22 confidential records and meetings.--

23 (1) There is created within the Department of Children  
24 and Family ~~Health and Rehabilitative~~ Services a Statewide  
25 Human Rights Advocacy Committee. The Department of Children  
26 and Family ~~Health and Rehabilitative~~ Services shall provide  
27 administrative support and service to the committee to the  
28 extent requested by the executive director within available  
29 resources. The Statewide Human Rights Advocacy Committee is  
30 ~~shall not be~~ subject to control, supervision, or direction by  
31 the Department of Children and Family ~~Health and~~

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

1 degree may not serve on the Statewide Human Rights Advocacy  
2 Committee at the same time.

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

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

18 (4) The Governor shall fill each vacancy on the  
19 Statewide Human Rights Advocacy Committee from a list of  
20 nominees submitted by the statewide committee. A list of  
21 candidates shall be submitted to the statewide committee by  
22 the district human rights advocacy committee in the district  
23 from which the vacancy occurs. Priority of consideration  
24 shall be given to the appointment of an individual whose  
25 primary interest, experience, or expertise lies with a major  
26 client group who are receiving one or more client services and  
27 are of the Department of Health and Rehabilitative Services  
28 not represented on the committee at the time of the  
29 appointment. If an appointment is not made within 60 days  
30 after a vacancy occurs on the committee, the vacancy shall be  
31 filled by a majority vote of the statewide committee without

1 further action by the Governor. A ~~No~~ person who is employed by  
2 any state agency that provides client services ~~the Department~~  
3 ~~of Health and Rehabilitative Services~~ may not be appointed to  
4 the committee.

5 (5)(a) Members of the Statewide Human Rights Advocacy  
6 Committee shall receive no compensation, but are ~~shall be~~  
7 entitled to be reimbursed for per diem and travel expenses in  
8 accordance with s. 112.061.

9 (b) The committee shall select an executive director  
10 who shall serve at the pleasure of the committee and shall  
11 perform the duties delegated to him or her by the committee.  
12 The compensation of the executive director shall be  
13 established in accordance with the rules of the Selected  
14 Exempt Service.

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

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

30 (6) The members of the Statewide Human Rights Advocacy  
31 Committee shall elect a chairperson to a term of 1 year. A

1 person may not serve as chairperson for more than two  
2 consecutive terms.

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

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

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

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

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

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

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

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

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

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

31

- 1           3. Uniform procedures for the statewide committee and  
2 district committees to receive and investigate reports of  
3 abuse of constitutional or human rights;
- 4           4. The responsibilities and relationship of the  
5 district human rights advocacy committees to the statewide  
6 committee;
- 7           5. The relationship of the committee to the state  
8 agencies that receive and investigate reports of abuse and  
9 neglect of children or adults ~~Department of Health and~~  
10 ~~Rehabilitative Services~~, including the way in which reports of  
11 findings and recommendations related to reported abuse are  
12 given to the appropriate state agency that provides client  
13 services ~~Department of Health and Rehabilitative Services~~;
- 14           6. Provision for cooperation with the State Long-Term  
15 Care Ombudsman Council;
- 16           7. Procedures for appeal. An appeal to the state  
17 committee is made by a district human rights advocacy  
18 committee when a valid complaint is not resolved at the  
19 district level. The statewide committee may appeal an  
20 unresolved complaint to the secretary or director of the  
21 appropriate state agency that provides client services  
22 ~~Department of Health and Rehabilitative Services~~. If, after  
23 exhausting all remedies, the statewide committee is not  
24 satisfied that the complaint can be resolved within the state  
25 agency ~~Department of Health and Rehabilitative Services~~, the  
26 appeal may 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 committee and district committees.  
31



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

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

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

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

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

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

1 which the committee is seeking access and the intended use of  
2 such information. The court may authorize committee access to  
3 such records upon a finding that such access is directly  
4 related to an investigation regarding the possible deprivation  
5 of constitutional or human rights or the abuse of a client.  
6 Original client files, records, and reports may ~~shall~~ not be  
7 removed from a state agency ~~the Department of Children and~~  
8 ~~Family Services~~ or agency facilities. ~~Under no circumstance~~  
9 ~~shall~~ The committee may not have access to confidential  
10 adoption records in accordance with ~~the provisions of~~ ss.  
11 39.0132, 63.022, and 63.162. Upon completion of a general  
12 investigation of practices and procedures of a state agency  
13 ~~the Department of Children and Family Services~~, the committee  
14 shall report its findings to that agency ~~department~~.

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

23 (c) Portions of meetings of the Statewide Human Rights  
24 Advocacy Committee which relate to the identity of any client  
25 or group of clients subject to the protections of this  
26 section, which relate to the identity of an individual who  
27 provides information to the committee about abuse or alleged  
28 violations of constitutional or human rights, or wherein  
29 testimony is provided relating to records otherwise made  
30 confidential by law, are exempt from ~~the provisions of~~ s.  
31 286.011 and s. 24(b), Art. I of the State Constitution.

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

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

19           Section 3. Section 402.166, Florida Statutes, 1998  
20 Supplement, is amended to read:

21           402.166 District human rights advocacy committees;  
22 confidential records and meetings.--

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

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

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

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

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

29 (b)1. The Governor shall appoint the first 4 members  
30 of any newly created committee; and those 4 members shall  
31 select the remaining 11 members, subject to approval of the

1 Governor. If any of the first four members are not appointed  
2 within 60 days after ~~of~~ a request is being submitted to the  
3 Governor, those members shall be appointed by a majority vote  
4 of the district committee without further action by the  
5 Governor.

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

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

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

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

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

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

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

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

25           (b) Monitoring, by site visit and inspection of  
26 records, the delivery and use of services, programs or  
27 facilities operated, funded, regulated, or licensed by a state  
28 agency that provides client services ~~the Department of Health~~  
29 ~~and Rehabilitative Services~~ for the purpose of preventing  
30 abuse or deprivation of the constitutional and human rights of  
31 clients. A district human rights advocacy committee may

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

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

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

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

28 (f) Appealing to the state committee any complaint  
29 unresolved at the district level. Any matter that constitutes  
30 a threat to the life, safety, or health of a client or is  
31



1 multidistrict in scope shall automatically be referred to the  
2 Statewide Human Rights Advocacy Committee.

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

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

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

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

30 2. 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 committee is seeking access and the intended use of  
3 such information. The court may authorize committee access to  
4 such records upon a finding that such access is directly  
5 related to an investigation regarding the possible deprivation  
6 of constitutional or human rights or the abuse of a client.  
7 Original client files, records, and reports may ~~shall~~ not be  
8 removed from a state agency ~~Department of Children and Family~~  
9 ~~Services~~ or agency facilities. ~~Upon no circumstances shall~~  
10 The committee may not have access to confidential adoption  
11 records, in accordance with ~~the provisions of~~ ss. 39.0132,  
12 63.022, and 63.162. Upon completion of a general investigation  
13 of practices and procedures followed by a state agency in  
14 providing client services ~~of the Department of Children and~~  
15 ~~Family Services~~, the committee shall report its findings to  
16 the appropriate state agency ~~that department~~.

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

25 (c) Portions of meetings of a district human rights  
26 advocacy committee which relate to the identity of any client  
27 or group of clients subject to the protections of this  
28 section, which relate to the identity of an individual who  
29 provides information to the committee about abuse or alleged  
30 violations of constitutional or human rights, or wherein  
31 testimony is provided relating to records otherwise made

1 confidential by law, are exempt from ~~the provisions of~~ s.  
2 286.011 and s. 24(b), Art. I of the State Constitution.

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

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

21 Section 4. Section 402.167, Florida Statutes, is  
22 amended to read:

23 402.167 ~~Department~~ Duties of the state agencies that  
24 provide client services relating to the Statewide Human Rights  
25 Advocacy Committee and the District Human Rights Advocacy  
26 Committees.--

27 (1) Each state agency that provides client services  
28 ~~The Department of Health and Rehabilitative Services~~ shall  
29 adopt rules that ~~which~~ are consistent with law, amended to  
30 reflect any statutory changes, and that ~~which rules~~ address at  
31 least the following:

1           (a) Procedures by which ~~Department of Health and~~  
2 ~~Rehabilitative Services~~ district staff of the state agencies  
3 refer reports of abuse to district human rights advocacy  
4 committees.

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

8           (c) Procedures by which recommendations made by human  
9 rights advocacy committees will be incorporated into  
10 ~~Department of Health and Rehabilitative Services~~ policies and  
11 procedures of the state agencies.

12           (d) Procedures by which committee members are  
13 reimbursed for authorized expenditures.

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

21           (3) The secretaries or directors of the state agencies  
22 ~~secretary~~ shall ensure the full cooperation and assistance of  
23 employees of their respective state agencies ~~the Department of~~  
24 ~~Health and Rehabilitative Services~~ with members and staff of  
25 the statewide and district human rights advocacy committees.  
26 Further, the secretaries or directors of the state agencies  
27 ~~secretary~~ shall ensure that, to the extent possible, staff  
28 assigned to the Statewide Human Rights Advocacy Committees and  
29 district human rights advocacy committees are free of  
30 interference from or control by any of the state agencies ~~the~~  
31

1 ~~department~~ in performing their duties relative to those  
2 committees.

3 Section 5. This act shall take effect July 1, 1999.

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LEGISLATIVE 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.