

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 960

SPONSOR: Senator Forman

SUBJECT: Human Rights

DATE: March 15, 1999

REVISED: 03/17/99 \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Crosby</u>	<u>Whiddon</u>	<u>CF</u>	<u>Favorable/ 2 Amend.</u>
2.	_____	_____	<u>RC</u>	_____
3.	_____	_____	<u>FP</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

Senate Bill 960 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. This bill 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. The membership of the statewide council is revised. This bill also provides for the establishment of additional human rights advocacy councils. This act shall take effect July 1, 1999.

This bill substantially amends the following sections of the Florida Statutes: 39.001, 39.202, 39.302, 393.13, 394.459, 394.4595, 394.4597, 394.4598, 394.4599, 394.4615, 400.0067, 400.0089, 400.419, 400.428, 402.165, 402.166, 402.167, 415.1034, 415.104, 415.1055, 415,106, and 415.107.

## II. Present Situation:

The Statewide Human Rights Advocacy Committee is responsible for serving as an independent third-party mechanism to protect the constitutional and human rights of any client within a program or facility operated, funded, licensed, or regulated by the Department of Children and Family Services (formerly the Department of Health and Rehabilitative Services). This is accomplished by monitoring, site visits, inspection of records, the delivery and use of services, programs, or facilities operated, funded, regulated or licensed by the Department of Children and Family Services (department). Further, the statewide committee receives, investigates, and resolves reports of abuse or deprivation of constitutional and human rights that have been referred by the district committees. The statewide committee also reviews existing programs or services and new or revised programs of the department and makes recommendations as to how the rights of clients are affected relative to these programs or services. Although the department is responsible for providing administrative support to the committee, the committee is not subject to control, supervision, or direction by the department in the performance of its duties.

The statewide committee is composed of 15 citizens, one representing each service district of the department, and except, for the elected official, each person must have been a member of the district committee. These members must represent five groups of citizens:

- One elected public official;
- Two providers who deliver services or programs to clients of the department;
- Four nonsalaried representatives of nonprofit agencies or civic groups;
- Four representatives of consumer groups who are currently receiving, or have received, services from the department within the past 4 years, at least one of whom must be a consumer; and
- Four residents of the state who do not represent any of these groups, two of whom represent health-related professions and two of whom represent the legal profession.

Statewide committee members are appointed to serve 3-year terms and may serve for 2 terms.

At least one district human rights advocacy committee is created in each of the 15 service districts of the department and each district may have no more than three advocacy committees. Service district II, however, is permitted to have four committees. Although not stated in statute, reportedly the reason district II has an additional committee is that one is assigned exclusively to Florida State Hospital. The district administrator in each district must assign staff to provide administrative support to the district committees. The staff who are assigned to the local committees must perform the functions required by the local committee without interference from the department.

### **III. Effect of Proposed Changes:**

Section 1 amends s. 402.165, F.S., relating to the Statewide Human Rights Advocacy Committee, to change the name of the statewide “committee” to a statewide “council” and the “district committees” to “local councils.” The change to “council” is consistent with definitions of the terms “committee” and “council” as described in s. 20.03, F.S. In s. 20.03, F.S., the term “committee” refers to an advisory body created without specific statutory enactment for a time not to exceed 1 year or created by specific statutory enactment for a time not to exceed 3 years and appointed to study a specific problem and recommend a solution; a committee’s existence terminates upon the completion of its assignment. The term “council,” however, is defined as an advisory body created by specific statutory enactment and appointed to function on a continuing basis for the study of the problems arising in a specified functional or program area of state government and to provide recommendations and policy alternatives.

The change from “district” to “local” councils is made at the request of the statewide and local committees. According to the executive director of the statewide committee, this request is made to decrease the association of the committees with department “districts.”

The number of members (15) of the statewide council remains the same, one from each service district of the department, but the affiliation of the members is amended as follows:

- One provider who delivers services or programs to clients of the department;
- Two nonsalaried representatives of nonprofit agencies or civic groups;

- Four representatives of consumer groups who are currently receiving, or have received, services from the department within the past 4 years, at least one of whom must be a consumer; and
- Two residents of the state who do not represent any of the other groups, one of whom represents health-related professions and one of whom represents the legal profession.

Of the remaining members no more than one shall be an elected official, a health professional, a member of the legal profession, a provider, or an individual whose primary area of interest, experience, or expertise is a major client group of the department which is not represented on the council at the time of appointment. No more than two members shall be nonsalaried representatives of nonprofit agencies or civic groups.

Except for the elected official, who need not have served on the local council, each person appointed to the statewide council must have served on the local council. Priority consideration will be given to an applicant who has served a full term on a local council.

Statewide council members shall be appointed to serve terms of 4 years, retroactive to members in office on July 1, 1999. A member may not serve more than two full, consecutive terms.

Current law requires the members of the statewide council to elect a chairperson. This bill provides that they shall also elect a vice chair. A person may not serve as chair or vice chair for more than two full, consecutive terms. Responsibilities and the authority of the council are republished with the technical (e.g., terminological) changes.

Section 2 amends s. 402.166, district human rights advocacy committees, to change the term "district human rights advocacy committee" to "local councils." This bill authorizes the local council of any district with a developmental services institution (as defined in s. 393.063, F.S.) or a state mental health hospital to petition the statewide council to establish a separate council to serve the population in that facility.

Changes are made which are similar to those in the statewide council. For example, members shall serve no more than two full, consecutive terms of 4 years and each council shall elect a chair and vice chair. Other changes are merely technical changes (e.g., terminology).

Sections 3 through 22 reflect conforming amendments consistent with changes in terminology.

Section 23 provides an effective date of July 1, 1999.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The provision permitting a local council to petition the statewide council to establish a separate council to serve the population of a developmental services institution or a state mental health hospital may result in a fiscal impact. Although members serve without compensation, they are entitled to per diem and travel expenses. The department reports that the current annual cost for support of the local human rights advocacy committee work is \$428,074.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

#1 by Children and Families Committee:

This is a technical amendment and substitutes the word “council” for “committee.”

#2 by Children and Families Committee:

This amendment is largely technical and adds the term “and vice chairperson” after the term “chairperson.”