

By Senator Forman

32-316-00

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           providing for the Statewide Human Rights  
10          Advocacy Committee to monitor the activities  
11          of, and investigate complaints against, state  
12          agencies that provide client services; amending  
13          s. 402.166, F.S.; revising the duties of the  
14          district human rights advocacy committees to  
15          conform to the expanded duties of the statewide  
16          committee; amending s. 402.167, F.S.; providing  
17          rulemaking authority to the state agencies  
18          subject to investigation by the human rights  
19          advocacy committees; providing an effective  
20          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, V, or VIII of  
13 chapter 400, chapter 409, chapter 411, chapter 414, chapter  
14 415, or chapter 916 which service is provided by a state  
15 agency or a service provider that is regulated, funded, or  
16 licensed by a state agency.

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

19 Section 2. Section 402.165, Florida Statutes, is  
20 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 Services a Statewide Human Rights Advocacy  
25 Committee. The Department of Children and Family Services  
26 shall provide administrative support and service to the  
27 committee to the extent requested by the executive director  
28 within available resources. The Statewide Human Rights  
29 Advocacy Committee is ~~shall~~ ~~not~~ ~~be~~ subject to control,  
30 supervision, or direction by the Department of Children and  
31 Family Services in the performance of its duties. The

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

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

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

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

1 ~~Children and Family Services~~ may not be appointed to the  
2 committee.

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

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

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

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

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

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

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

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

28           (c) Receiving, investigating, and resolving reports of  
29 abuse or deprivation of constitutional and human rights  
30 referred to the Statewide Human Rights Advocacy Committee by a  
31 district human rights advocacy committee. If a matter

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

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

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

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

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

- 22 1. The responsibilities of the committee;
- 23 2. The organization and operation of the statewide  
24 committee and district committees, including procedures for  
25 replacing a member, formats for maintaining records of  
26 committee activities, and criteria for determining what  
27 constitutes a conflict of interest for purposes of assigning  
28 and conducting investigations and monitoring;
- 29 3. Uniform procedures for the statewide committee and  
30 district committees to receive and investigate reports of  
31 abuse of constitutional or human rights;

1           4. The responsibilities and relationship of the  
2 district human rights advocacy committees to the statewide  
3 committee;

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

11           6. Provision for cooperation with the State Long-Term  
12 Care Ombudsman Council;

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

24           8. Uniform procedures for gaining access to and  
25 maintaining confidential information; and

26           9. Definitions of misfeasance and malfeasance for  
27 members of the statewide committee and district committees.

28           (h) Monitoring the performance and activities of all  
29 district committees and providing technical assistance to  
30 members and staff of district committees.

31



1 (i) Providing for the development and presentation of  
2 a standardized training program for members of district  
3 committees.

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

6 1. Authority to receive, investigate, seek to  
7 conciliate, hold hearings on, and act on complaints which  
8 allege any abuse or deprivation of constitutional or human  
9 rights of clients.

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

26 3. Standing to petition the circuit court for access  
27 to client records that ~~which~~ are confidential as specified by  
28 law. The petition must ~~shall~~ state the specific reasons for  
29 which the committee is seeking access and the intended use of  
30 such information. The court may authorize committee access to  
31 such records upon a finding that such access is directly

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

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

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

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

1 24(a), Art. I of the State Constitution until the  
2 investigation is completed or until the investigation ceases  
3 to be active. For purposes of this section, an investigation  
4 is considered "active" while such investigation is being  
5 conducted by the committee with a reasonable, good faith  
6 belief that it may lead to a finding of abuse or of a  
7 violation of human rights. An investigation does not cease to  
8 be active so long as the committee is proceeding with  
9 reasonable dispatch and there is a good faith belief that  
10 action may be initiated by the committee or other  
11 administrative or law enforcement agency.

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

16 Section 3. Section 402.166, Florida Statutes, is  
17 amended to read:

18 402.166 District human rights advocacy committees;  
19 confidential records and meetings.--

20 (1) At least one district human rights advocacy  
21 committee is created in each service district of the  
22 Department of Children and Family Services. The district  
23 human rights advocacy committees shall be subject to direction  
24 from and the supervision of the Statewide Human Rights  
25 Advocacy Committee. The district administrator shall assign  
26 staff to provide administrative support to the committees, and  
27 staff assigned to these positions shall perform the functions  
28 required by the committee without interference from the  
29 department. The district committees shall direct the  
30 activities of staff assigned to them to the extent necessary  
31 for the committees to carry out their duties. The number and

1 areas of responsibility of the district human rights advocacy  
2 committees, not to exceed three in any district, shall be  
3 determined by the majority vote of district committee members.  
4 However, district II may have four committees. District  
5 committees shall meet at facilities under their jurisdiction  
6 whenever possible.

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

1 ~~the Department of Children and Family Services~~ constitute more  
2 than 25 percent of the membership of a district committee.  
3 Persons related to each other by consanguinity or affinity  
4 within the third degree may ~~shall~~ not serve on the same  
5 district human rights advocacy committee at the same time.  
6 All members of district human rights advocacy committees must  
7 successfully complete a standardized training course for  
8 committee members within 3 months after their appointment to a  
9 committee. A member may not be assigned an investigation that  
10 ~~which~~ requires access to confidential information prior to the  
11 completion of the training course. After he or she completes  
12 the required training course, a member of a committee may  
13 ~~shall~~ not be prevented from participating in any activity of  
14 that committee, including investigations and monitoring,  
15 except due to a conflict of interest as described in the  
16 procedures established by the Statewide Human Rights Advocacy  
17 Committee pursuant to subsection (7).

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

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

1           2. Members may not ~~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 takes no  
8 action to approve or disapprove a replacement of a member  
9 pursuant to this paragraph within 30 days after the district  
10 committee has notified the Governor of the appointment, ~~then~~  
11 the appointment of the replacement is ~~shall be~~ considered to  
12 be approved.

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

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

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

28           (6) A member of a district committee shall receive no  
29 compensation but is ~~shall receive per diem and shall be~~  
30 entitled to be reimbursed for per diem and travel expenses as  
31 provided in s. 112.061. Members may be provided reimbursement

1 for long-distance telephone calls if such calls were necessary  
2 to an investigation of an abuse or deprivation of human  
3 rights.

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

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

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

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

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

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

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

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

29 (g) Submitting an annual report by September 30 to the  
30 Statewide Human Rights Advocacy Committee concerning  
31



1 activities, recommendations, and complaints reviewed or  
2 developed by the committee during the year.

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

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

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

26 2. Standing to petition the circuit court for access  
27 to client records that ~~which~~ are confidential as specified by  
28 law. The petition must ~~shall~~ state the specific reasons for  
29 which the committee is seeking access and the intended use of  
30 such information. The court may authorize committee access to  
31 such records upon a finding that such access is directly

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

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

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

30 (d) All records prepared by members of the committee  
31 which reflect a mental impression, investigative strategy, or

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

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

17 Section 4. Section 402.167, Florida Statutes, is  
18 amended to read:

19 402.167 ~~Department~~ Duties of the state agencies that  
20 provide client services relating to the Statewide Human Rights  
21 Advocacy Committee and the district human rights advocacy  
22 committees.--

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

28 (a) Procedures by which ~~Department of Children and~~  
29 ~~Family Services~~ district staff of the state agencies refer  
30 reports of abuse to district human rights advocacy committees.  
31

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

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

28 Section 5. This act shall take effect July 1, 2000.  
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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.