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1 A bill to be entitled

2 An act relating to advocacy councils; amending ss. 39.202,  
3 163.62, and 394.4615, F.S.; providing advocacy councils  
4 access to certain records; amending s. 215.5601, F.S.;  
5 revising the membership of the Lawton Chiles Endowment  
6 Fund Advisory Council; amending s. 395.3025, F.S.;  
7 providing advocacy councils access to certain records;  
8 deleting requirement that a patient or a patient  
9 representative be given opportunity to object to the  
10 provision of such records; amending s. 400.118, F.S.;  
11 providing that representatives of advocacy councils,  
12 rather than of long-term care ombudsman councils, shall  
13 participate in quality-of-care assessment visits at  
14 nursing homes; amending s. 400.408, F.S.; revising the  
15 membership of local coordinating workgroups relating to  
16 unlicensed assisted living facilities; amending s.  
17 402.164, F.S.; revising legislative intent and definitions  
18 relating to the Florida Statewide Advocacy Council and  
19 Florida local advocacy councils; expanding the definition  
20 of "client"; including federal health and human services  
21 in the definition of "client services"; amending s.  
22 402.165, F.S.; transferring the Florida Statewide Advocacy  
23 Council from the Department of Children and Family  
24 Services to the Justice Administrative Commission by a  
25 type two transfer; providing that the council is an  
26 independent state agency; increasing the membership of the  
27 council; increasing the terms of members of the council;  
28 authorizing the council to create a foundation for certain  
29 purposes; prohibiting changes in the council's annual  
30 budget requests by the Justice Administrative Commission;



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31 providing additional responsibilities and titles for the  
32 chair and vice chair of the council and increasing their  
33 terms; providing that the council shall be provided access  
34 to certain confidential records without the requirement of  
35 court approval; providing a definition; providing a fine  
36 for persons refusing to provide such access; requiring  
37 state agencies to provide notice to the council regarding  
38 certain programs; providing for interprogram agreements  
39 regarding certain investigatory matters; amending s.  
40 402.166, F.S.; revising various provisions relating to  
41 local advocacy councils; increasing the number of local  
42 advocacy councils which may be established; deleting a  
43 prohibition on relatives serving simultaneously on a local  
44 council; increasing the terms of members on such councils;  
45 providing local councils with access to certain records;  
46 deleting the requirement that local councils review client  
47 service programs; amending s. 402.167, F.S.; requiring  
48 state agencies to adopt rules which provide access to  
49 their records and additional case referrals to advocacy  
50 councils; requiring the Department of Management Services  
51 to provide office locations to local councils in each  
52 judicial circuit; revising provisions relating to  
53 locations where a council's offices are collocated with  
54 those of a state agency; requiring agency secretaries and  
55 directors to provide certain information to contractors  
56 and to make certain amendments in state plans filed with  
57 federal agencies; providing legislative intent that  
58 advocacy councils be provided access to all protected  
59 health information of clients receiving health and human  
60 services; amending s. 402.70, F.S.; requiring certain



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61 interagency agreements; amending s. 415.1034, F.S.;

62 deleting the requirement that certain persons make

63 suspected abuse reports to the central abuse hotline;

64 amending s. 415.104, F.S.; requiring the Department of

65 Children and Family Services to provide certain copies of

66 abuse reports to advocacy councils; amending s. 415.1055,

67 F.S.; requiring the Department of Children and Family

68 Services to provide copies of certain investigative

69 reports; amending s. 415.107, F.S.; clarifying that access

70 to certain records of the Department of Children and

71 Family Services is available to the statewide and local

72 advocacy councils; amending s. 775.0823, F.S.; providing

73 criminal penalties for a violent offense against any

74 official or employee of the executive branch when engaged

75 in certain activities; amending s. 784.07, F.S.;

76 increasing classification and requiring minimum terms of

77 incarceration for the crime of assault or battery if the

78 victim is a child protection services investigator or a

79 member, employee, or agent of an advocacy council;

80 providing an effective date.

81

82 Be It Enacted by the Legislature of the State of Florida:

83

84 Section 1. Paragraphs (a), (c), and (k) of subsection (2)

85 and subsections (4) and (5) of section 39.202, Florida Statutes,

86 are amended to read:

87 39.202 Confidentiality of reports and records in cases of

88 child abuse or neglect.--

89 (2) Access to such records, excluding the name of the

90 reporter which shall be released only as provided in subsection



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91 (4), shall be granted only to the following persons, officials,  
 92 and agencies:

93 (a) Employees, authorized agents, or contract providers of  
 94 the department, the Department of Health, or county agencies  
 95 responsible for carrying out:

- 96 1. Child or adult protective investigations;
- 97 2. Ongoing child or adult protective services;
- 98 3. Healthy Start services; or
- 99 4. Licensure or approval of adoptive homes, foster homes,  
 100 or child care facilities, or family day care homes or informal  
 101 child care providers who receive subsidized child care funding,  
 102 or other homes used to provide for the care and welfare of  
 103 children.

104  
 105 Also, employees or agents of the Department of Juvenile Justice  
 106 responsible for the provision of services to children, pursuant  
 107 to chapters 984 and 985, and officials, employees, or agents of  
 108 the Florida Statewide Advocacy Council for program investigation  
 109 and monitoring activities including reconciliation of a  
 110 complaint pursuant to chapter 402.

111 (c) The state attorney of the judicial circuit in which  
 112 the child resides or in which the alleged abuse or neglect  
 113 occurred and the Florida local advocacy council for the service  
 114 area in which the alleged abuse or neglect occurred.

115 (k) Any appropriate official of the a Florida Statewide  
 116 Advocacy Council investigating a report of known or suspected  
 117 child abuse, abandonment, or neglect; the Auditor General or the  
 118 Office of Program Policy Analysis and Government Accountability  
 119 for the purpose of conducting audits or examinations pursuant to  
 120 law; or the guardian ad litem for the child.



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121 (4) The name of any person reporting child abuse,  
122 abandonment, or neglect may not be released to any person other  
123 than employees of the department responsible for child  
124 protective services, the central abuse hotline, law enforcement,  
125 the child protection team, the Florida Statewide Advocacy  
126 Council, the appropriate Florida local advocacy council, or the  
127 appropriate state attorney~~,~~ without the written consent of the  
128 person reporting. This does not prohibit the subpoenaing of a  
129 person reporting child abuse, abandonment, or neglect when  
130 deemed necessary by the court, the state attorney, ~~or~~ the  
131 department, the Florida Statewide Advocacy Council, or the  
132 appropriate Florida local advocacy council, provided the fact  
133 that such person made the report is not disclosed. Any person  
134 who reports a case of child abuse or neglect may, at the time he  
135 or she makes the report, request that the department notify him  
136 or her that a child protective investigation occurred as a  
137 result of the report. Any person specifically listed in s.  
138 39.201(1) who makes a report in his or her official capacity may  
139 also request a written summary of the outcome of the  
140 investigation. The department shall mail such a notice to the  
141 reporter within 10 days after completing the child protective  
142 investigation.

143 (5) All records and reports of the child protection team  
144 of the Department of Health are confidential and exempt from the  
145 provisions of ss. 119.07(1) and 456.057, and shall not be  
146 disclosed, except, upon request, to the state attorney, law  
147 enforcement, the department, the Florida Statewide Advocacy  
148 Council, the appropriate Florida local advocacy council, and  
149 necessary professionals, in furtherance of the treatment or  
150 additional evaluative needs of the child, by order of the court,



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151 or to health plan payors, limited to that information used for  
 152 insurance reimbursement purposes.

153 Section 2. Section 163.62, Florida Statutes, is amended to  
 154 read:

155 163.62 Collaborative client information system;  
 156 establishment.--Notwithstanding any general or special law to  
 157 the contrary, the agencies of one or more local governments may  
 158 establish a collaborative client information system. State  
 159 agencies and private agencies may participate in the  
 160 collaborative information system. Data related to the following  
 161 areas may be included in the collaborative information system,  
 162 although the system is not limited to only these types of  
 163 information: criminal justice, juvenile justice, education,  
 164 employment training, health, and human services. The Florida  
 165 Statewide Advocacy Council and the Florida local advocacy  
 166 councils shall have access to all collaborative client  
 167 information upon request as provided in ss. 402.164-402.167.

168 Section 3. Paragraph (a) of subsection (6) of section  
 169 215.5601, Florida Statutes, is amended to read:

170 215.5601 Lawton Chiles Endowment Fund.--

171 (6) ADVISORY COUNCIL.--The Lawton Chiles Endowment Fund  
 172 Advisory Council is established for the purpose of reviewing the  
 173 funding priorities of the state agencies, evaluating their  
 174 requests against the mission and goals of the agencies and  
 175 legislative intent for the use of endowment funds, and allowing  
 176 for public input and advocacy.

177 (a) The advisory council shall consist of 15 members,  
 178 including:

- 179 1. The director of the United Way of Florida, Inc., or his  
 180 or her designee;



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- 181           2. The director of the Foster Parents Association, or his  
182 or her designee;
- 183           3. The chair of the Department of Elderly Affairs Advisory  
184 Council, or his or her designee;
- 185           4. The president of the Florida Association of Area  
186 Agencies on Aging, or his or her designee;
- 187           5. The Advocate General of the Florida Statewide Advocacy  
188 Council ~~State Long-Term Care Ombudsman~~, or his or her designee;
- 189           6. The state director of the Florida AARP, or his or her  
190 designee;
- 191           7. The director of the Florida Pediatric Society, or his  
192 or her designee;
- 193           8. A representative of the Guardian Ad Litem Program,  
194 appointed by the Advocate General of the Florida Statewide  
195 Advocacy Council ~~Governor~~;
- 196           9. A representative of a child welfare lead agency for  
197 community-based care, appointed by the Governor;
- 198           10. A representative of an elder care lead agency for  
199 community-based care, appointed by the Governor;
- 200           11. A representative of a statewide child advocacy  
201 organization, appointed by the Governor and the Advocate General  
202 of the Florida Statewide Advocacy Council;
- 203           12. One consumer caregiver for children, appointed by the  
204 Governor;
- 205           13. One person over the age of 60 years to represent the  
206 interests of elders, appointed by the Governor;
- 207           14. One person under the age of 18 years to represent the  
208 interests of children, appointed by the Governor; and
- 209           15. One consumer caregiver for a functionally impaired  
210 elderly person, appointed by the Governor.



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211 Section 4. Subsections (5) and (6) of section 394.4615,  
 212 Florida Statutes, are amended to read:

213 394.4615 Clinical records; confidentiality.--

214 (5) Information from clinical records may be used by the  
 215 Agency for Health Care Administration, the department, and the  
 216 Florida Statewide Advocacy Council or the appropriate Florida  
 217 local advocacy council ~~councils~~ for the purpose of monitoring  
 218 facility activity and investigating complaints concerning  
 219 facilities. Clinical records may be copied at the expense of the  
 220 facility upon demand of an official, employee, or agent of the  
 221 Florida Statewide Advocacy Council or the appropriate Florida  
 222 local advocacy council in accordance with the provisions of s.  
 223 402.165 or s. 402.166.

224 (6) Clinical records relating to a Medicaid recipient  
 225 shall be furnished to the Medicaid Fraud Control Unit in the  
 226 Department of Legal Affairs and the Florida Statewide Advocacy  
 227 Council or the appropriate Florida local advocacy council, upon  
 228 request.

229 Section 5. Paragraph (h) of subsection (4) of section  
 230 395.3025, Florida Statutes, is amended to read:

231 395.3025 Patient and personnel records; copies;  
 232 examination.--

233 (4) Patient records are confidential and must not be  
 234 disclosed without the consent of the person to whom they  
 235 pertain, but appropriate disclosure may be made without such  
 236 consent to:

237 (h) The Statewide Advocacy ~~State Long-Term Care Ombudsman~~  
 238 Council and the local advocacy ~~long-term care ombudsman~~  
 239 councils, with respect to the records of a patient who has been  
 240 admitted from a nursing home or long-term care facility, when





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241 the councils are conducting an investigation involving the  
 242 patient as authorized under part II of chapter 400, upon  
 243 presentation of identification as a council member by the person  
 244 making the request. ~~Disclosure under this paragraph shall only~~  
 245 ~~be made after a competent patient or the patient's~~  
 246 ~~representative has been advised that disclosure may be made and~~  
 247 ~~the patient has not objected.~~

248 Section 6. Paragraph (a) of subsection (2) of section  
 249 400.118, Florida Statutes, is amended to read:

250 400.118 Quality assurance; early warning system;  
 251 monitoring; rapid response teams.--

252 (2)(a) The agency shall establish within each district  
 253 office one or more quality-of-care monitors, based on the number  
 254 of nursing facilities in the district, to monitor all nursing  
 255 facilities in the district on a regular, unannounced, aperiodic  
 256 basis, including nights, evenings, weekends, and holidays.  
 257 Quality-of-care monitors shall visit each nursing facility at  
 258 least quarterly. Priority for additional monitoring visits shall  
 259 be given to nursing facilities with a history of resident care  
 260 deficiencies. Quality-of-care monitors shall be registered  
 261 nurses who are trained and experienced in nursing facility  
 262 regulation, standards of practice in long-term care, and  
 263 evaluation of patient care. Individuals in these positions shall  
 264 not be deployed by the agency as a part of the district survey  
 265 team in the conduct of routine, scheduled surveys, but shall  
 266 function solely and independently as quality-of-care monitors.  
 267 Quality-of-care monitors shall assess the overall quality of  
 268 life in the nursing facility and shall assess specific  
 269 conditions in the facility directly related to resident care,  
 270 including the operations of internal quality improvement and



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271 risk management programs and adverse incident reports. The  
 272 quality-of-care monitor shall include in an assessment visit  
 273 observation of the care and services rendered to residents and  
 274 formal and informal interviews with residents, family members,  
 275 facility staff, resident guests, volunteers, other regulatory  
 276 staff, and representatives of the a long-term care ombudsman  
 277 ~~council~~ or Florida Statewide Advocacy Council or the appropriate  
 278 Florida local advocacy council.

279 Section 7. Paragraph (i) of subsection (1) of section  
 280 400.408, Florida Statutes, is amended to read:

281 400.408 Unlicensed facilities; referral of person for  
 282 residency to unlicensed facility; penalties; verification of  
 283 licensure status.--

284 (1)

285 (i) Each field office of the Agency for Health Care  
 286 Administration shall establish a local coordinating workgroup  
 287 which includes representatives of local law enforcement  
 288 agencies, state attorneys, local fire authorities, the  
 289 Department of Children and Family Services, ~~the district long-~~  
 290 ~~term care ombudsman council~~, and the local ~~district human rights~~  
 291 advocacy committee to assist in identifying the operation of  
 292 unlicensed facilities and to develop and implement a plan to  
 293 ensure effective enforcement of state laws relating to such  
 294 facilities. The workgroup shall report its findings, actions,  
 295 and recommendations semiannually to the Director of Health  
 296 Facility Regulation of the agency.

297 Section 8. Section 402.164, Florida Statutes, is amended  
 298 to read:

299 402.164 Legislative intent; definitions.--



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300 (1)(a) It is the intent of the Legislature to use citizen  
301 volunteers as members of the Florida Statewide Advocacy Council  
302 and the Florida local advocacy councils, and to have the Florida  
303 Statewide Advocacy Council ~~volunteers~~ operate a network of local  
304 advocacy councils that shall, without interference by an  
305 executive agency, undertake to discover, monitor, investigate,  
306 and determine the presence of conditions or individuals that  
307 constitute a threat to the rights, health, safety, or welfare of  
308 persons who receive services from state agencies.

309 (b) It is the further intent of the Legislature that the  
310 monitoring and investigation shall safeguard the health, safety,  
311 and welfare of consumers of services provided by these state  
312 agencies. The Legislature finds that the government oversight  
313 role of the members of the Florida Statewide Advocacy Council  
314 and the Florida local advocacy councils is necessary to ensure  
315 the protection and advocacy of all Floridians that receive both  
316 state and federal health and human services from state agencies.  
317 The Legislature further finds that through the performance of  
318 the vital oversight duties and responsibilities by these citizen  
319 volunteers, the Florida Health and Human Services Access Act  
320 will be preserved.

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

322 (a) "Client" means any person who receives client services  
323 as defined in s. 402.164(2)(b), including, but not limited to, a  
324 client as defined in s. 393.063, s. 394.67, s. 397.311, or s.  
325 400.960, a forensic client or client as defined in s. 916.106, a  
326 child, minor, or youth as defined in s. 39.01, s. 61.401, s.  
327 92.53, s. 390.01115, or s. 411.202, a child as defined in s.  
328 827.01, a family as defined in s. 414.0252, a participant as  
329 defined in s. 400.551, a resident as defined in s. 400.402, a



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330 Medicaid recipient or recipient as defined in s. 409.901, a  
331 child receiving childcare as defined in s. 402.302, a disabled  
332 adult as defined in s. 410.032 or s. 410.603, or a victim as  
333 defined in s. 39.01, s. 92.53, ~~or s. 415.102~~, or s. 914.17 as  
334 each definition applies within its respective chapter. "Client"  
335 also means an inmate as defined in s. 397.753, a child as  
336 defined in s. 984.03, s. 985.03, or s. 985.418, an exceptional  
337 student as defined in s. 1003.01(3)(a) or s. 1001.42(4)(1), a  
338 recipient of school-based services in s. 1011.70, a newborn  
339 infant as defined in s. 63.0423, or an unborn person as defined  
340 in s. 731.303.

341 (b) "Client services" means health and human services  
342 which are provided through any state or federal health and human  
343 services program to a client by a state agency or a service  
344 provider operated, funded, or contracted by the state.

345 Section 9. Section 402.165, Florida Statutes, is amended  
346 to read:

347 402.165 Florida Statewide Advocacy Council; confidential  
348 records and meetings.--

349 (1) The Statewide Human Rights Advocacy Committee within  
350 the Department of Children and Family Services is redesignated  
351 as the Florida Statewide Advocacy Council and shall be  
352 administratively housed as an independent state agency within  
353 the Justice Administrative Commission by a type two transfer to  
354 the Department of Management Services. Members of the council  
355 shall represent the interests of clients who are served by state  
356 agencies that provide client services. The Justice  
357 Administrative Commission ~~Department of Children and Family~~  
358 ~~Services~~ shall provide administrative support and service to the  
359 statewide council to the extent requested by the executive



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360 director ~~within available resources~~. The statewide council is  
361 not subject to control, supervision, or direction by any state  
362 agency ~~the Department of Children and Family Services~~ in the  
363 performance of its duties. The council shall consist of 20 ~~15~~  
364 residents of this state, one from each service area designated  
365 by the statewide council, who broadly represent the interests of  
366 the public and the clients of the state agencies that provide  
367 client services. The members shall be representative of four  
368 groups of state residents as follows: one provider who delivers  
369 client services as defined in s. 402.164(2); two nonsalaried  
370 representatives of nonprofit agencies or civic groups; four  
371 representatives of consumer groups who are currently receiving,  
372 or have received, client services within the past 4 years, at  
373 least one of whom must be a consumer of one or more client  
374 services; and two residents of the state who do not represent  
375 any of the foregoing groups, one of whom represents the health-  
376 related professions and one of whom represents the legal  
377 profession. In appointing the representative of the health-  
378 related professions, the appointing authority shall give  
379 priority of consideration to a physician licensed under chapter  
380 458 or chapter 459; and, in appointing the representative of the  
381 legal profession, the appointing authority shall give priority  
382 of consideration to a member in good standing of The Florida  
383 Bar. Of the remaining members, no more than one shall be an  
384 elected official; no more than one shall be a health  
385 professional; no more than one shall be a legal professional; no  
386 more than one shall be a provider; no more than two shall be  
387 nonsalaried representatives of nonprofit agencies or civic  
388 groups; and no more than one shall be an individual whose  
389 primary area of interest, experience, or expertise is a major



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390 client group of a client services group that is not represented  
391 on the council at the time of appointment. Except for the member  
392 who is an elected public official, each member of the statewide  
393 council must have served as a member of a Florida local advocacy  
394 council, with priority consideration given to an applicant who  
395 has served a full term on a local council. Persons related to  
396 each other by consanguinity or affinity within the third degree  
397 may not serve on the statewide council at the same time.

398 (2) Members of the statewide council shall be appointed to  
399 serve terms of 6 4 years. A member may not serve more than two  
400 full consecutive terms. The terms of members currently serving a  
401 term of 4 years are extended by 2 additional years.

402 (3) If a member of the statewide council fails to attend  
403 two-thirds of the regular council meetings during the course of  
404 a year, the position held by the member may be deemed vacant by  
405 the council. The Governor shall fill the vacancy pursuant to  
406 subsection (4). If a member of the statewide council violates  
407 this section or procedures adopted under this section, the  
408 council may recommend to the Governor that the member be  
409 removed.

410 (4) The Governor shall fill each vacancy on the statewide  
411 council from a list of nominees submitted by the statewide  
412 council. A list of candidates may be submitted to the statewide  
413 council by the local council in the service area from which the  
414 vacancy occurs. Priority of consideration shall be given to the  
415 appointment of an individual who is receiving one or more client  
416 services and whose primary interest, experience, or expertise  
417 lies with a major client group that is not represented on the  
418 council at the time of the appointment. If an appointment is not  
419 made within 60 days after a vacancy occurs on the statewide



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420 council, the vacancy may be filled by a majority vote of the  
 421 statewide council without further action by the Governor. A  
 422 person who is employed by any state agency in client services  
 423 may not be appointed to the statewide council.

424 (5)(a) Members of the statewide council shall receive no  
 425 compensation, but are entitled to be reimbursed for per diem and  
 426 travel expenses in accordance with s. 112.061.

427 (b) The council shall select an executive director who  
 428 shall serve at the pleasure of the council and shall perform the  
 429 duties delegated to him or her by the council. The compensation  
 430 of the executive director and staff shall be established in  
 431 accordance with the rules of the Selected Exempt Service.

432 (c) The council may apply for, receive, and accept grants,  
 433 gifts, donations, bequests, and other payments including money  
 434 or property, real or personal, tangible or intangible, and  
 435 service from any governmental or other public or private entity  
 436 or person and make arrangements as to the use of same. The  
 437 council may create a foundation for such purposes.

438 (d) The statewide council shall annually prepare a  
 439 legislative budget request that is not to be changed by the  
 440 Justice Administrative Commission ~~department~~ ~~staff~~ after it is  
 441 approved by the council and, ~~but~~ shall be submitted to the  
 442 Governor for inclusion in the Governor's legislative budget  
 443 request and transmittal to the Legislature. The budget shall  
 444 include a request for funds to carry out the activities of the  
 445 statewide council and the local councils.

446 (6) The members of the statewide council shall elect a  
 447 chair, who shall also serve in the capacity of Advocate General  
 448 for the State of Florida, and a vice chair, who shall also serve  
 449 in the capacity of Lieutenant Advocate General for the State of



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450 Florida, to terms of 2 years ~~1 year~~. A person may not serve as  
 451 chair or vice chair for more than two full consecutive terms.

452 (7) The responsibilities of the statewide council include,  
 453 but are not limited to:

454 (a) Serving as an independent third-party mechanism within  
 455 Florida state government for protecting the constitutional and  
 456 human rights of clients within programs or facilities operated,  
 457 funded, or contracted by any state agency that provides client  
 458 services.

459 (b) Monitoring by site visit and access to ~~inspection of~~  
 460 records the delivery and use of services, programs, or  
 461 facilities operated, funded, or contracted by any state agency  
 462 that provides client services, for the purpose of preventing  
 463 abuse or deprivation of the constitutional and human rights of  
 464 clients. The statewide council may conduct an unannounced site  
 465 visit or monitoring visit and must be provided access to ~~that~~  
 466 ~~involves the inspection of~~ records if the visit is conditioned  
 467 upon a complaint. A complaint may be generated by the council  
 468 itself if information from any state agency that provides client  
 469 services or from other sources indicates a situation at the  
 470 program or facility that indicates possible abuse or neglect or  
 471 deprivation of the constitutional and human rights of clients.  
 472 For the purposes of this section, the term "provided access to  
 473 records" means a visual inspection of such records is permitted  
 474 and a copy of the hard-copy or electronic version of the records  
 475 maintained is made available by the state agency, facility,  
 476 provider, or contractor. The statewide council shall establish  
 477 and follow uniform criteria for the review of information and  
 478 generation of complaints. Routine program monitoring and reviews





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479 that do not require an examination of records may be made  
480 unannounced.

481 (c) Receiving, investigating, and resolving reports of  
482 abuse or deprivation of constitutional and human rights referred  
483 to the statewide council by a local council. If a matter  
484 constitutes a threat to the life, safety, or health of clients  
485 or is multiservice-area ~~multidistrict~~ in scope, the statewide  
486 council may exercise such powers without the necessity of a  
487 referral from a local council.

488 (d) Reviewing existing programs or services and new or  
489 revised programs of the state agencies that provide client  
490 services and making recommendations as to how the rights of  
491 clients are affected. State agencies shall notify the executive  
492 director of the statewide council as to each new or revised  
493 statewide program within 60 days prior to implementation to  
494 provide the council a reasonable period of time to determine how  
495 the rights of clients are affected by such revision or  
496 implementation of such program.

497 (e) Submitting an annual report to the Legislature, no  
498 later than December 30 of each calendar year, concerning  
499 activities, recommendations, and complaints reviewed or  
500 developed by the council during the year.

501 (f) Conducting meetings at least six times a year at the  
502 call of the chair and at other times at the call of the Governor  
503 or by written request of six members of the council.

504 (g) Adopting rules pursuant to ss. 120.536(1) and 120.54  
505 to implement the provisions of this section, including, at a  
506 minimum:

507 1. Providing uniform procedures for gaining access to and  
508 maintaining confidential information.



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509        2. Developing and adopting uniform statewide procedures to  
510 be used to carry out the operations ~~purpose and responsibilities~~  
511 of the statewide council and the local councils, which  
512 procedures shall include, but need not be limited to, the  
513 following:

514        ~~a.1.~~ The responsibilities of the statewide council and the  
515 local councils;

516        ~~b.2.~~ The organization and operation of the statewide  
517 council and the local councils, including procedures for  
518 replacing a member, formats for maintaining records of council  
519 activities, and criteria for determining what constitutes a  
520 conflict of interest for purposes of assigning and conducting  
521 investigations and monitoring;

522        ~~c.3.~~ Uniform procedures for the statewide council and the  
523 local councils relating to receiving and investigating reports  
524 of abuse or deprivation of constitutional or human rights;

525        ~~4.~~ ~~The responsibilities and relationship of the local~~  
526 ~~councils to the statewide council;~~

527        ~~d.5.~~ The relationship of the statewide council to the  
528 state agencies that receive and investigate reports of abuse and  
529 neglect of clients of state agencies, including the way in which  
530 reports of findings and recommendations related to reported  
531 abuse or neglect are issued ~~given~~ to the appropriate state  
532 agency that provides client services;

533        ~~e.6.~~ Provision for cooperation with the State Long-Term  
534 Care Ombudsman Council; and

535        ~~f.7.~~ Procedures for appeal. An appeal to the statewide  
536 council is made by a local council when a valid complaint is not  
537 resolved at the local level. The statewide council may appeal an  
538 unresolved complaint to the secretary or director of the



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539 appropriate state agency that provides client services. If,  
 540 after exhausting all remedies, the statewide council is not  
 541 satisfied that the complaint can be resolved within the state  
 542 agency, the appeal may be referred to the Governor;

543 ~~8. Uniform procedures for gaining access to and~~  
 544 ~~maintaining confidential information; and~~

545 ~~9. Definitions of misfeasance and malfeasance for members~~  
 546 ~~of the statewide council and local councils.~~

547 (h) Supervising the operations of the local councils,  
 548 monitoring the performance and activities of all local councils,  
 549 and providing technical assistance to members and staff of local  
 550 councils.

551 (i) Providing for the development and presentation of a  
 552 standardized training program for members of local councils.

553 (j) Ensuring coordination, communication, and cooperation  
 554 with the investigation of abuse, neglect, or exploitation of  
 555 vulnerable adults by joining with state agencies in developing  
 556 and maintaining interprogram agreements or operational  
 557 procedures among appropriate departmental programs, the Medicaid  
 558 Fraud Control Unit, the Governor's Inspector General, and other  
 559 agencies that provide services to clients. These agreements or  
 560 procedures must cover such subjects as the appropriate roles and  
 561 responsibilities of the state agency in identifying and  
 562 responding to reports of abuse, neglect, or exploitation of  
 563 clients; the provision of services; and related coordinated  
 564 activities.

565 (k) Serving in the administration of the State Medicaid  
 566 Plan by conducting investigations relating to the administration  
 567 of the plan or determining and improving services to the



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568 recipients of the Medicaid program in accordance with 42 C.F.R.  
569 ss. 431.302 and 431.306.

570 (1) Serving as a citizen review panel of the state plan  
571 submitted under the Child Abuse Prevention and Treatment Act  
572 (CAPTA).

573 (8)(a) In the performance of its duties, the statewide  
574 council shall have:

575 1. Authority to receive, investigate, seek to conciliate,  
576 hold administrative hearings pursuant to chapter 120 on, and act  
577 on complaints that allege any abuse or deprivation of  
578 constitutional or human rights of persons who receive client  
579 services from any state agency. In performing its duties under  
580 this subparagraph, the council may issue declaratory statements  
581 pursuant to the provisions of chapter 120.

582 2. Access to all state agency program and service records  
583 and client records, files, and reports from any program,  
584 service, or facility that is operated, funded, or contracted by  
585 any state agency that provides client services and any records  
586 that are material to its investigation and are in the custody of  
587 any other agency or department of government, including law  
588 enforcement agencies, public education facilities, the Medicaid  
589 program, and Child Protective Services. The council's  
590 investigation or monitoring shall not impede or obstruct matters  
591 under investigation by law enforcement agencies or judicial  
592 authorities, and in accordance with s. 20.055, law enforcement  
593 agencies and inspector generals shall allow access of  
594 investigative records to the council. Access shall not be  
595 granted if a specific procedure or prohibition for reviewing  
596 records is required by federal law and regulation that  
597 supersedes state law. Access shall not be granted to the records



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598 of a private licensed practitioner who is providing services  
599 outside the state agency, or outside a state facility, and whose  
600 client is competent and refuses disclosure.

601 3. Standing to seek injunctive relief from ~~petition~~ the  
602 circuit court for denial of access to client records or state  
603 agency program or services records to its members or members of  
604 any of the local advocacy councils ~~that are confidential as~~  
605 ~~specified by law. The petition shall state the specific reasons~~  
606 ~~for which the council is seeking access and the intended use of~~  
607 ~~such information. The circuit court shall issue a civil fine of~~  
608 \$15,000 to any individual who withheld client, program, or  
609 services records or otherwise denied access to any records  
610 requested by the statewide council or any of the local advocacy  
611 councils ~~may authorize council access to such records upon a~~  
612 ~~finding that such access is directly related to an investigation~~  
613 ~~regarding the possible deprivation of constitutional or human~~  
614 ~~rights or the abuse of a client. Original client files, agency~~  
615 records, and reports shall not be removed from a state agency,  
616 but copies shall be provided to the statewide council and the  
617 local advocacy councils at the state agency's expense. Under no  
618 circumstance shall the council have access to confidential  
619 adoption records once the adoption is finalized by a court in  
620 accordance with ss. 39.0132, 63.022, and 63.162. Upon completion  
621 of a general investigation of practices and procedures of a  
622 state agency, the statewide council shall report its findings to  
623 that agency.

624 (b) All information obtained or produced by the statewide  
625 council that is made confidential by law, that relates to the  
626 identity of any client or group of clients subject to the  
627 protections of this section, or that relates to the identity of



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628 an individual who provides information to the council about  
629 abuse or about alleged violations of constitutional or human  
630 rights, is confidential and exempt from s. 119.07(1) and s.  
631 24(a), Art. I of the State Constitution.

632 (c) Portions of meetings of the statewide council that  
633 relate to the identity of any client or group of clients subject  
634 to the protections of this section, that relate to the identity  
635 of an individual who provides information to the council about  
636 abuse or about alleged violations of constitutional or human  
637 rights, or wherein testimony is provided relating to records  
638 otherwise made confidential by law, are exempt from s. 286.011  
639 and s. 24(b), Art. I of the State Constitution.

640 (d) All records prepared by members of the statewide  
641 council that reflect a mental impression, investigative  
642 strategy, or theory are exempt from s. 119.07(1) and s. 24(a),  
643 Art. I of the State Constitution until the investigation is  
644 completed or until the investigation ceases to be active. For  
645 purposes of this section, an investigation is considered  
646 "active" while such investigation is being conducted by the  
647 statewide council with a reasonable, good faith belief that it  
648 may lead to a finding of abuse or of a violation of human  
649 rights. An investigation does not cease to be active so long as  
650 the statewide council is proceeding with reasonable dispatch and  
651 there is a good faith belief that action may be initiated by the  
652 council or other administrative or law enforcement agency.

653 (e) Any person who knowingly and willfully discloses any  
654 such confidential information commits a misdemeanor of the  
655 second degree, punishable as provided in s. 775.082 or s.  
656 775.083.



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657 Section 10. Section 402.166, Florida Statutes, is amended  
658 to read:

659 402.166 Florida local advocacy councils; confidential  
660 records and meetings.--

661 (1) Each district human rights advocacy committee within  
662 each district ~~service~~ area of the Department of Children and  
663 Family Services is redesignated as the Florida Local Advocacy  
664 Council. The local councils are subject to direction from and  
665 the supervision of the Florida Statewide Advocacy Council. The  
666 Florida Statewide Advocacy Council ~~Department of Children and~~  
667 ~~Family Services~~ shall assign staff to provide administrative  
668 support to the local councils, and staff assigned to these  
669 positions shall perform the functions required by the statewide  
670 and local advocacy councils without interference from any state  
671 agency ~~the department~~. The Statewide Advocacy Council member and  
672 chair of the local councils shall direct the activities of staff  
673 assigned to them ~~to the extent necessary~~ for the local councils  
674 to carry out their duties. The number and areas of  
675 responsibility of the local councils, not to exceed 60 ~~46~~  
676 councils statewide, shall be determined by the Florida Statewide  
677 Advocacy Council and shall be consistent with judicial circuit  
678 boundaries. Local councils shall meet at state-licensed  
679 facilities under their jurisdiction whenever possible.

680 (2) Each local council shall have no fewer than 7 members  
681 and no more than 15 members, no more than 4 of whom are or have  
682 been recipients of one or more client services within the last 4  
683 years, except that one member of this group may be an immediate  
684 relative or legal representative of a current or former client;  
685 two providers who deliver client services as defined in s.  
686 402.164(2); and two representatives of professional



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687 organizations, one of whom represents the health-related  
688 professions and one of whom represents the legal profession.  
689 Priority of consideration shall be given to the appointment of  
690 at least one medical or osteopathic physician, as defined in  
691 chapters 458 and 459, and one member in good standing of The  
692 Florida Bar. Priority of consideration shall also be given to  
693 the appointment of an individual who is receiving client  
694 services and whose primary interest, experience, or expertise  
695 lies with a major client group not represented on the council at  
696 the time of the appointment. A person who is employed in client  
697 services by any state agency may not be appointed to the  
698 council. No more than three individuals who are providing  
699 contracted services for clients to any state agency may serve on  
700 the same local council at the same time. ~~Persons related to each~~  
701 ~~other by consanguinity or affinity within the third degree may~~  
702 ~~not serve on the same local council at the same time.~~ All  
703 members of local councils must successfully complete a  
704 standardized training course for council members within 3 months  
705 after their appointment to a local council. A member may not be  
706 assigned to an investigation that requires access to  
707 confidential information prior to the completion of the training  
708 course. After he or she completes the required training course,  
709 a member of a local council may not be prevented from  
710 participating in any activity of that local council, including  
711 investigations and monitoring, except due to a conflict of  
712 interest as described in the procedures established by the  
713 statewide council pursuant to subsection (7).

714 (3)(a) With respect to existing local councils, each  
715 member shall serve a term of 6 4 years. Upon expiration of a  
716 term and in the case of any other vacancy, the local council





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717 shall appoint a replacement by majority vote of the local  
718 council, subject to the approval of the Governor. A member may  
719 serve no more than two full consecutive terms.

720 (b)1. The Governor shall appoint the first four members of  
721 any newly created local council; and those four members shall  
722 select the remaining members, subject to approval of the  
723 Governor. If any of the first four members are not appointed  
724 within 60 days after a request is submitted to the Governor,  
725 those members may be appointed by a majority vote of the  
726 statewide council without further action by the Governor.

727 2. Members shall serve for no more than two full  
728 consecutive terms of 6 4 years, except that at the time of  
729 initial appointment, terms shall be staggered so that  
730 approximately one-half of the members first appointed shall  
731 serve for terms of 6 4 years and the remaining members shall  
732 serve for terms of 3 2 years. Vacancies shall be filled as  
733 provided in subparagraph 1.

734 (c) If no action is taken by the Governor to approve or  
735 disapprove a replacement of a member pursuant to this subsection  
736 within 30 days after the local council has notified the Governor  
737 of the appointment, then the appointment of the replacement may  
738 be considered approved by the statewide council.

739 (4) Each local council shall elect a chair and a vice  
740 chair for a term of 1 year. A person may not serve as chair or  
741 vice chair for more than two consecutive terms. The chair's and  
742 vice chair's terms expire on September 30 of each year.

743 (5) If a local council member fails to attend two-thirds  
744 of the regular council meetings during the course of a year, the  
745 local council may replace the member. If a member of a local  
746 council violates this section or procedures adopted under this



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747 section, the local council may recommend to the Governor that  
 748 the member be removed.

749 (6) A member of a local council shall receive no  
 750 compensation but is entitled to be reimbursed for per diem and  
 751 travel expenses as provided in s. 112.061. Members may be  
 752 provided reimbursement for long-distance telephone calls if such  
 753 calls were necessary to an investigation of an abuse or  
 754 deprivation of constitutional or human rights.

755 (7) A local council shall first seek to resolve a  
 756 complaint with the appropriate local administration, agency, or  
 757 program; any matter not resolved by the local council shall be  
 758 referred to the statewide council through appeal. A local  
 759 council shall comply with appeal procedures established by the  
 760 statewide council. The duties, actions, and procedures of both  
 761 new and existing local councils shall conform to ss. 402.164-  
 762 402.167. The duties of each local council shall include, but are  
 763 not limited to:

764 (a) Serving as an independent third-party mechanism for  
 765 protecting the constitutional and human rights of any client  
 766 within a program or facility operated, funded, or contracted by  
 767 a state agency providing client services in the local service  
 768 area.

769 (b) Monitoring by site visit and access to ~~inspection of~~  
 770 records the delivery and use of services, programs, or  
 771 facilities operated, funded, or contracted by a state agency  
 772 that provides client services, for the purpose of preventing  
 773 abuse or deprivation of the constitutional and human rights of  
 774 clients. A local council may conduct an unannounced site visit  
 775 or monitoring visit and must be provided access to ~~that involves~~  
 776 ~~the inspection of~~ records if the visit is conditioned upon a



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777 complaint. A complaint may be generated by the council itself if  
 778 information from a state agency that provides client services or  
 779 from other sources indicates a situation at the program or  
 780 facility that indicates possible abuse or neglect or deprivation  
 781 of constitutional and human rights of clients. For the purposes  
 782 of this section, the term "provided access to records" means a  
 783 visual inspection of such records is permitted and a copy of the  
 784 hard-copy or electronic version of the records maintained is  
 785 made available by the state agency, facility, provider, or  
 786 contractor. The local council shall follow uniform criteria  
 787 established by the statewide council for the review of  
 788 information and generation of complaints. Routine program  
 789 monitoring and reviews that do not require an examination of  
 790 records may be made unannounced.

791 (c) Receiving, investigating, and resolving reports of  
 792 abuse or deprivation of constitutional and human rights in the  
 793 local service area.

794 (d) Reviewing and making recommendations to the applicable  
 795 local state agency head or director regarding how a client's  
 796 constitutional or human rights might be affected by the client's  
 797 participation in a proposed research project, prior to  
 798 implementation of the project.

799 ~~(e) Reviewing existing programs and proposed new or~~  
 800 ~~revised programs of client services and making recommendations~~  
 801 ~~as to how these programs and services affect or might affect the~~  
 802 ~~constitutional or human rights of clients.~~

803 ~~(e)~~(f) Appealing to the statewide council any complaint  
 804 unresolved at the local level. Any matter that constitutes a  
 805 threat to the life, safety, or health of a client or is



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806 multidistrict in scope shall automatically be referred to the  
807 statewide council.

808 ~~(f)~~~~(g)~~ Submitting an annual report by September 30 to the  
809 statewide council concerning activities, recommendations, and  
810 complaints reviewed or developed by the council during the year.

811 ~~(g)~~~~(h)~~ Conducting meetings at least six times a year at  
812 the call of the chair and at other times at the call of the  
813 Governor, at the call of the statewide council, or by written  
814 request of a majority of the members of the council.

815 (8)(a) In the performance of its duties, a local council  
816 shall have the same right to be provided access to all client  
817 records and state agency files and reports from any program or  
818 service and to all records of contract providers or facilities  
819 that are operated by, funded by, or under contract with any  
820 state agency as specified in s. 402.165(8)(a)2. and the same  
821 standing to seek injunctive relief for denial of access to such  
822 records as specified in s. 402.165(8)(a)3.÷

823 ~~1. Access to all client records, files, and reports from~~  
824 ~~any program, service, or facility that is operated, funded, or~~  
825 ~~contracted by any state agency that provides client services and~~  
826 ~~any records that are material to its investigation and are in~~  
827 ~~the custody of any other agency or department of government. The~~  
828 ~~council's investigation or monitoring shall not impede or~~  
829 ~~obstruct matters under investigation by law enforcement agencies~~  
830 ~~or judicial authorities. Access shall not be granted if a~~  
831 ~~specific procedure or prohibition for reviewing records is~~  
832 ~~required by federal law and regulation that supersedes state~~  
833 ~~law. Access shall not be granted to the records of a private~~  
834 ~~licensed practitioner who is providing services outside state~~



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835 ~~agencies and facilities and whose client is competent and~~  
836 ~~refuses disclosure.~~

837 ~~2. Standing to petition the circuit court for access to~~  
838 ~~client records that are confidential as specified by law. The~~  
839 ~~petition shall state the specific reasons for which the council~~  
840 ~~is seeking access and the intended use of such information. The~~  
841 ~~court may authorize access to such records upon a finding that~~  
842 ~~such access is directly related to an investigation regarding~~  
843 ~~the possible deprivation of constitutional or human rights or~~  
844 ~~the abuse of a client. Original client files, records, and~~  
845 ~~reports shall not be removed from a state agency. Upon no~~  
846 ~~circumstances shall the council have access to confidential~~  
847 ~~adoption records once the adoption is finalized in court in~~  
848 ~~accordance with ss. 39.0132, 63.022, and 63.162. Upon completion~~  
849 ~~of a general investigation of practices and procedures followed~~  
850 ~~by a state agency in providing client services, the council~~  
851 ~~shall report its findings to the appropriate state agency.~~

852 (b) All information obtained or produced by a local  
853 council that is made confidential by law, that relates to the  
854 identity of any client or group of clients subject to the  
855 protection of this section, or that relates to the identity of  
856 an individual who provides information to the council about  
857 abuse or about alleged violations of constitutional or human  
858 rights, is confidential and exempt from s. 119.07(1) and s.  
859 24(a), Art. I of the State Constitution.

860 (c) Portions of meetings of a local council that relate to  
861 the identity of any client or group of clients subject to the  
862 protections of this section, that relate to the identity of an  
863 individual who provides information to the council about abuse  
864 or about alleged violations of constitutional or human rights,



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865 or wherein testimony is provided relating to records otherwise  
866 made confidential by law, are exempt from s. 286.011 and s.  
867 24(b), Art. I of the State Constitution.

868 (d) All records prepared by members of a local council  
869 that reflect a mental impression, investigative strategy, or  
870 theory are exempt from s. 119.07(1) and s. 24(a), Art. I of the  
871 State Constitution until the investigation is completed or until  
872 the investigation ceases to be active. For purposes of this  
873 section, an investigation is considered "active" while such  
874 investigation is being conducted by a local council with a  
875 reasonable, good faith belief that it may lead to a finding of  
876 abuse or of a violation of constitutional or human rights. An  
877 investigation does not cease to be active so long as the council  
878 is proceeding with reasonable dispatch and there is a good faith  
879 belief that action may be initiated by the council or other  
880 administrative or law enforcement agency.

881 (e) Any person who knowingly and willfully discloses any  
882 such confidential information commits a misdemeanor of the  
883 second degree, punishable as provided in s. 775.082 or s.  
884 775.083.

885 Section 11. Section 402.167, Florida Statutes, is amended  
886 to read:

887 402.167 Duties of state agencies that provide client  
888 services relating to the Florida Statewide Advocacy Council and  
889 the Florida local advocacy councils.--

890 (1) Each state agency that provides client services shall  
891 adopt rules that are consistent with law, amended to reflect any  
892 statutory changes, and that address at least the following:

893 (a) Procedures by which staff of state agencies refer  
894 reports of abuse or matters that constitute a threat to the



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895 life, health, safety, welfare, or human and constitutional  
 896 rights of clients to the Florida Statewide Advocacy Council and  
 897 the Florida local advocacy councils.

898 (b) Procedures by which client information is made  
 899 available and accessible in both electronic and written form to  
 900 members of the Florida Statewide Advocacy Council and the  
 901 Florida local advocacy councils.

902 (c) Procedures by which recommendations made by the  
 903 statewide and local councils will be incorporated into policies,  
 904 and procedures, and rules of the state agencies.

905 (2) The Department of Management Services ~~Children and~~  
 906 ~~Family Services~~ shall provide a maximum of 20 acceptable site  
 907 locations for the ~~location of~~ local councils' staff for each of  
 908 the respective 20 judicial circuits ~~councils~~ in state-owned,  
 909 state-leased, or state-contracted buildings or state agency area  
 910 offices at the approval of the executive director of the Florida  
 911 Statewide Advocacy Council. The department shall make  
 912 arrangements with state agencies that are located in state-  
 913 owned, state-leased, or state-contracted properties that provide  
 914 client services under s. 402.164(2) to house the offices under  
 915 the Florida Statewide Advocacy Council. Collocated costs paid by  
 916 the Statewide Advocacy Council shall include ~~and shall provide~~  
 917 ~~necessary equipment and office supplies, including,~~ but be  
 918 limited to, costs for ~~clerical and word processing services,~~  
 919 photocopiers, mail services, telephone services, computer  
 920 network access and related services, security services,  
 921 janitorial services, utilities, and parking for staff and state  
 922 and local council members ~~and stationery and other necessary~~  
 923 ~~supplies, and shall establish the procedures by which council~~  
 924 ~~members are reimbursed for authorized expenditures.~~



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925           (3) The secretaries or directors of the state agencies  
926 shall ensure the full cooperation and assistance of employees of  
927 and contract providers to their respective state agencies with  
928 members and staff of the statewide and local councils. The  
929 secretaries or directors of the state agencies shall notify all  
930 contract providers and service providers of the powers, duties,  
931 and authority of, and the requirement to provide access to  
932 information to, statewide and local council members under s.  
933 402.164-402.166. Further, staff positions that were assigned as  
934 of July 1, 2002, to the Florida local advocacy council or their  
935 equivalent FTEs by the Department of Children and Family  
936 Services shall be transferred to the executive director of the  
937 Florida Statewide Advocacy Council by a type two transfer the  
938 ~~Secretary of Children and Family Services shall ensure that, to~~  
939 ~~the extent possible, staff assigned to the statewide council and~~  
940 ~~local councils are free of interference from or control by the~~  
941 ~~department in performing their duties relative to those~~  
942 ~~councils.~~

943           (4) The secretaries or directors of the state agencies  
944 shall amend any state plans filed with federal agencies that  
945 provide federal funding of client services as defined in s.  
946 402.164(2) to reflect that the statewide and local advocacy  
947 councils' activities are part of the administration of the  
948 respective state plan.

949           (5) It is the intent of the Legislature that the Florida  
950 Statewide Advocacy Council and local advocacy councils are to  
951 have routine access to protected health information of the  
952 beneficiaries of the health and human services and any other  
953 information that is confidential in nature so that the legal  
954 doctrine of expressio unis est exclusio alterius is expressly





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955 renounced in the event that another statute specifically fails  
 956 to specify that the Florida Statewide Advocacy Council or local  
 957 advocacy council is to be provided access to confidential  
 958 information.

959 Section 12. Section 402.70, Florida Statutes, is amended  
 960 to read:

961 402.70 Interagency agreement between state agencies that  
 962 provide health and human services and the Florida Statewide  
 963 Advocacy Council ~~Department of Health and Department of Children~~  
 964 ~~and Family Services.~~ State agencies ~~The Department of Health and~~  
 965 ~~the Department of Children and Family Services~~ shall enter into  
 966 an interagency agreement to ensure coordination and cooperation  
 967 in identifying client populations, developing service delivery  
 968 systems, and meeting the needs of the state's residents. The  
 969 interagency agreement must address cooperative programmatic  
 970 issues, rules-development issues, and any other issues that must  
 971 be resolved to ensure the continued working relationship among  
 972 the health and human ~~family~~ services programs of the ~~two~~  
 973 departments. The state agencies shall enter into an interagency  
 974 agreement with the Florida Statewide Advocacy Council to ensure  
 975 access and cooperation in identifying and resolving client  
 976 complaints and to address programmatic issues, rules-development  
 977 issues, and any other issues that must be resolved to ensure the  
 978 legislative intent in s. 402.164. In accordance with the  
 979 provisions of the Health Insurance Portability and  
 980 Accountability Act of 1996 (HIPAA) and other federal privacy  
 981 laws, the Florida Statewide Advocacy Council, the Agency for  
 982 Health Care Administration, the Medicaid Fraud Control Unit of  
 983 the Office of the Attorney General, and the Inspector Governor  
 984 shall enter into a data-sharing agreement to ensure coordination



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985 and cooperation of confidential client health information in  
 986 monitoring, investigating, protecting, and safeguarding the  
 987 health, safety, rights, and welfare of the clients of health and  
 988 human services and programs.

989 Section 13. Paragraph (a) of subsection (1) of section  
 990 415.1034, Florida Statutes, is amended to read:

991 415.1034 Mandatory reporting of abuse, neglect, or  
 992 exploitation of vulnerable adults; mandatory reports of death.--

993 (1) MANDATORY REPORTING.--

994 (a) Any person, including, but not limited to, any:

995 1. Physician, osteopathic physician, medical examiner,  
 996 chiropractic physician, nurse, paramedic, emergency medical  
 997 technician, or hospital personnel engaged in the admission,  
 998 examination, care, or treatment of vulnerable adults;

999 2. Health professional or mental health professional other  
 1000 than one listed in subparagraph 1.;

1001 3. Practitioner who relies solely on spiritual means for  
 1002 healing;

1003 4. Nursing home staff; assisted living facility staff;  
 1004 adult day care center staff; adult family-care home staff;  
 1005 social worker; or other professional adult care, residential, or  
 1006 institutional staff;

1007 5. State, county, or municipal criminal justice employee  
 1008 or law enforcement officer;

1009 6. An employee of the Department of Business and  
 1010 Professional Regulation conducting inspections of public lodging  
 1011 establishments under s. 509.032;

1012 7. Florida Statewide Advocacy Council or local advocacy  
 1013 council member ~~or long-term care ombudsman council member~~; or



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1014 8. Bank, savings and loan, or credit union officer,  
1015 trustee, or employee,  
1016  
1017 who knows, or has reasonable cause to suspect, that a vulnerable  
1018 adult has been or is being abused, neglected, or exploited shall  
1019 immediately report such knowledge or suspicion to the central  
1020 abuse hotline.

1021 Section 14. Subsection (1) of section 415.104, Florida  
1022 Statutes, is amended to read:

1023 415.104 Protective investigations of cases of abuse,  
1024 neglect, or exploitation of vulnerable adults; transmittal of  
1025 records to state attorney.--

1026 (1) The department shall, upon receipt of a report  
1027 alleging abuse, neglect, or exploitation of a vulnerable adult,  
1028 begin within 24 hours a protective investigation of the facts  
1029 alleged therein. If a caregiver refuses to allow the department  
1030 to begin a protective investigation or interferes with the  
1031 conduct of such an investigation, the appropriate law  
1032 enforcement agency shall be contacted for assistance. If, during  
1033 the course of the investigation, the department has reason to  
1034 believe that the abuse, neglect, or exploitation is perpetrated  
1035 by a second party, the appropriate law enforcement agency and  
1036 state attorney shall be orally notified. The department and the  
1037 law enforcement agency shall cooperate to allow the criminal  
1038 investigation to proceed concurrently with, and not be hindered  
1039 by, the protective investigation. The department shall make a  
1040 preliminary written report to the law enforcement agencies  
1041 within 5 working days after the oral report. The department  
1042 shall, within 24 hours after receipt of the report, notify the  
1043 appropriate Florida local advocacy council, or long-term care



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1044 ombudsman council, when appropriate, that an alleged abuse,  
 1045 neglect, or exploitation perpetrated by a second party has  
 1046 occurred. The department must also provide to the Florida  
 1047 Statewide Advocacy Council or the appropriate local advocacy  
 1048 council the initial report on any adult or group of adults that  
 1049 such council requests either in writing or verbally. Notice to  
 1050 the Florida local advocacy council or long-term care ombudsman  
 1051 council may be accomplished ~~orally or~~ in writing and shall  
 1052 include the name and location of the vulnerable adult alleged to  
 1053 have been abused, neglected, or exploited and the nature of the  
 1054 report.

1055 Section 15. Subsection (8) of section 415.1055, Florida  
 1056 Statutes, is amended to read:

1057 415.1055 Notification to administrative entities.--

1058 (8) At the conclusion of a protective investigation at a  
 1059 facility, the department shall notify either the Florida local  
 1060 advocacy council or long-term care ombudsman council of the  
 1061 results of the investigation. The department must also provide  
 1062 to the Florida Statewide Advocacy Council or the appropriate  
 1063 local advocacy council the results of any investigation that  
 1064 such council requests in writing within 7 days. ~~This~~  
 1065 ~~notification must be in writing.~~

1066 Section 16. Paragraph (g) of subsection (3) of section  
 1067 415.107, Florida Statutes, is amended to read:

1068 415.107 Confidentiality of reports and records.--

1069 (3) Access to all records, excluding the name of the  
 1070 reporter which shall be released only as provided in subsection  
 1071 (6), shall be granted only to the following persons, officials,  
 1072 and agencies:



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1073 (g) Any appropriate official of the Florida Statewide  
1074 Advocacy Council or a local advocacy council or long-term care  
1075 ombudsman council investigating a report of known or suspected  
1076 abuse, neglect, or exploitation of a vulnerable adult.

1077 Section 17. Section 775.0823, Florida Statutes, is amended  
1078 to read:

1079 775.0823 Violent offenses committed against law  
1080 enforcement officers, correctional officers, state attorneys,  
1081 assistant state attorneys, executive branch officials and  
1082 employees, justices, or judges.--The Legislature does hereby  
1083 provide for an increase and certainty of penalty for any person  
1084 convicted of a violent offense against any law enforcement or  
1085 correctional officer, as defined in s. 943.10(1), (2), (3), (6),  
1086 (7), (8), or (9); against any state attorney elected pursuant to  
1087 s. 27.01 or assistant state attorney appointed under s. 27.181;  
1088 against any state official or employee of the executive branch  
1089 as described in chapter 20; or against any justice or judge of a  
1090 court described in Art. V of the State Constitution, which  
1091 offense arises out of or in the scope of the officer's duty as a  
1092 law enforcement or correctional officer, the state attorney's or  
1093 assistant state attorney's duty as a prosecutor or investigator,  
1094 the state official's or employee's duty as an enforcer,  
1095 investigator or monitor, or the justice's or judge's duty as a  
1096 judicial officer, as follows:

1097 (1) For murder in the first degree as described in s.  
1098 782.04(1), if the death sentence is not imposed, a sentence of  
1099 imprisonment for life without eligibility for release.

1100 (2) For attempted murder in the first degree as described  
1101 in s. 782.04(1), a sentence pursuant to s. 775.082, s. 775.083,  
1102 or s. 775.084.



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1103 (3) For murder in the second degree as described in s.  
 1104 782.04(2) and (3), a sentence pursuant to s. 775.082, s.  
 1105 775.083, or s. 775.084.

1106 (4) For attempted murder in the second degree as described  
 1107 in s. 782.04(2) and (3), a sentence pursuant to s. 775.082, s.  
 1108 775.083, or s. 775.084.

1109 (5) For murder in the third degree as described in s.  
 1110 782.04(4), a sentence pursuant to s. 775.082, s. 775.083, or s.  
 1111 775.084.

1112 (6) For attempted murder in the third degree as described  
 1113 in s. 782.04(4), a sentence pursuant to s. 775.082, s. 775.083,  
 1114 or s. 775.084.

1115 (7) For manslaughter as described in s. 782.07 during the  
 1116 commission of a crime, a sentence pursuant to s. 775.082, s.  
 1117 775.083, or s. 775.084.

1118 (8) For kidnapping as described in s. 787.01, a sentence  
 1119 pursuant to s. 775.082, s. 775.083, or s. 775.084.

1120 (9) For aggravated battery as described in s. 784.045, a  
 1121 sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.

1122 (10) For aggravated assault as described in s. 784.021, a  
 1123 sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.

1124  
 1125 Notwithstanding the provisions of s. 948.01, with respect to any  
 1126 person who is found to have violated this section, adjudication  
 1127 of guilt or imposition of sentence shall not be suspended,  
 1128 deferred, or withheld.

1129 Section 18. Subsections (1) and (2) of section 784.07,  
 1130 Florida Statutes, are amended to read:

1131 784.07 Assault or battery of law enforcement officers,  
 1132 firefighters, emergency medical care providers, public transit



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1133 employees or agents, or other specified officers;  
 1134 reclassification of offenses; minimum sentences.--

1135 (1) As used in this section, the term:

1136 (a) "Law enforcement officer" includes a law enforcement  
 1137 officer, a correctional officer, a correctional probation  
 1138 officer, a part-time law enforcement officer, a part-time  
 1139 correctional officer, an auxiliary law enforcement officer, and  
 1140 an auxiliary correctional officer, as those terms are  
 1141 respectively defined in s. 943.10, and any county probation  
 1142 officer; employee or agent of the Department of Corrections who  
 1143 supervises or provides services to inmates; officer of the  
 1144 Parole Commission; and law enforcement personnel of the Fish and  
 1145 Wildlife Conservation Commission, the Department of  
 1146 Environmental Protection, or the Department of Law Enforcement.

1147 (b) "Firefighter" means any person employed by any public  
 1148 employer of this state whose duty it is to extinguish fires; to  
 1149 protect life or property; or to enforce municipal, county, and  
 1150 state fire prevention codes, as well as any law pertaining to  
 1151 the prevention and control of fires.

1152 (c) "Emergency medical care provider" means an ambulance  
 1153 driver, emergency medical technician, paramedic, registered  
 1154 nurse, physician as defined in s. 401.23, medical director as  
 1155 defined in s. 401.23, or any person authorized by an emergency  
 1156 medical service licensed under chapter 401 who is engaged in the  
 1157 performance of his or her duties. The term "emergency medical  
 1158 care provider" also includes physicians, employees, agents, or  
 1159 volunteers of hospitals as defined in chapter 395, who are  
 1160 employed, under contract, or otherwise authorized by a hospital  
 1161 to perform duties directly associated with the care and



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1162 treatment rendered by the hospital's emergency department or the  
 1163 security thereof.

1164 (d) "Public transit employees or agents" means bus  
 1165 operators, train operators, revenue collectors, security  
 1166 personnel, equipment maintenance personnel, or field  
 1167 supervisors, who are employees or agents of a transit agency as  
 1168 described in s. 812.015(1)(1).

1169 (e) "Other specified officer" means a Child Protection  
 1170 Services investigator or a member, employee, or agent of the  
 1171 Florida Statewide Advocacy Council and Florida local advocacy  
 1172 council.

1173 (2) Whenever any person is charged with knowingly  
 1174 committing an assault or battery upon a law enforcement officer,  
 1175 a firefighter, an emergency medical care provider, a traffic  
 1176 accident investigation officer as described in s. 316.640, a  
 1177 traffic infraction enforcement officer as described in s.  
 1178 316.640, a parking enforcement specialist as defined in s.  
 1179 316.640, ~~or~~ a security officer employed by the board of trustees  
 1180 of a community college, or another specified officer, while the  
 1181 officer, firefighter, emergency medical care provider, intake  
 1182 officer, traffic accident investigation officer, traffic  
 1183 infraction enforcement officer, parking enforcement specialist,  
 1184 public transit employee or agent, ~~or~~ security officer, or other  
 1185 specified officer is engaged in the lawful performance of his or  
 1186 her duties, the offense for which the person is charged shall be  
 1187 reclassified as follows:

1188 (a) In the case of assault, from a misdemeanor of the  
 1189 second degree to a misdemeanor of the first degree.

1190 (b) In the case of battery, from a misdemeanor of the  
 1191 first degree to a felony of the third degree.





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1192 (c) In the case of aggravated assault, from a felony of  
 1193 the third degree to a felony of the second degree.

1194 Notwithstanding any other provision of law, any person convicted  
 1195 of aggravated assault upon a law enforcement officer shall be  
 1196 sentenced to a minimum term of imprisonment of 3 years.

1197 (d) In the case of aggravated battery, from a felony of  
 1198 the second degree to a felony of the first degree.

1199 Notwithstanding any other provision of law, any person convicted  
 1200 of aggravated battery of a law enforcement officer shall be  
 1201 sentenced to a minimum term of imprisonment of 5 years.

1202 Section 19. This act shall take effect July 1, 2003.