

By Senator Carlton

23-697-03

See HB 1323

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

1 membership of the council; increasing the terms  
2 of members of the council; authorizing the  
3 council to create a foundation for certain  
4 purposes; prohibiting changes in the council's  
5 annual budget requests by the Justice  
6 Administrative Commission; providing additional  
7 responsibilities and titles for the chair and  
8 vice chair of the council and increasing their  
9 terms; providing that the council shall be  
10 provided access to certain confidential records  
11 without the requirement of court approval;  
12 providing a definition; providing a fine for  
13 persons refusing to provide such access;  
14 requiring state agencies to provide notice to  
15 the council regarding certain programs;  
16 providing for interprogram agreements regarding  
17 certain investigatory matters; amending s.  
18 402.166, F.S.; revising various provisions  
19 relating to local advocacy councils; increasing  
20 the number of local advocacy councils which may  
21 be established; deleting a prohibition on  
22 relatives serving simultaneously on a local  
23 council; increasing the terms of members on  
24 such councils; providing local councils with  
25 access to certain records; deleting the  
26 requirement that local councils review client  
27 service programs; amending s. 402.167, F.S.;  
28 requiring state agencies to adopt rules which  
29 provide access to their records and additional  
30 case referrals to advocacy councils; requiring  
31 the Department of Management Services to

1 provide office locations to local councils in  
2 each judicial circuit; revising provisions  
3 relating to locations where a council's offices  
4 are collocated with those of a state agency;  
5 requiring agency secretaries and directors to  
6 provide certain information to contractors and  
7 to make certain amendments in state plans filed  
8 with federal agencies; providing legislative  
9 intent that advocacy councils be provided  
10 access to all protected health information of  
11 clients receiving health and human services;  
12 amending s. 402.70, F.S.; requiring certain  
13 interagency agreements; amending s. 415.1034,  
14 F.S.; deleting the requirement that certain  
15 persons make suspected abuse reports to the  
16 central abuse hotline; amending s. 415.104,  
17 F.S.; requiring the Department of Children and  
18 Family Services to provide certain copies of  
19 abuse reports to advocacy councils; amending s.  
20 415.1055, F.S.; requiring the Department of  
21 Children and Family Services to provide copies  
22 of certain investigative reports; amending s.  
23 415.107, F.S.; clarifying that access to  
24 certain records of the Department of Children  
25 and Family Services is available to the  
26 statewide and local advocacy councils; amending  
27 s. 775.0823, F.S.; providing criminal penalties  
28 for a violent offense against any official or  
29 employee of the executive branch when engaged  
30 in certain activities; amending s. 784.07,  
31 F.S.; increasing classification and requiring

1           minimum terms of incarceration for the crime of  
2           assault or battery if the victim is a child  
3           protection services investigator or a member,  
4           employee, or agent of an advocacy council;  
5           providing an effective date.

6  
7 Be It Enacted by the Legislature of the State of Florida:

8  
9           Section 1. Paragraphs (a), (c), and (k) of subsection  
10          (2) and subsections (4) and (5) of section 39.202, Florida  
11          Statutes, are amended to read:

12           39.202 Confidentiality of reports and records in cases  
13          of child abuse or neglect.--

14           (2) Access to such records, excluding the name of the  
15          reporter which shall be released only as provided in  
16          subsection (4), shall be granted only to the following  
17          persons, officials, and agencies:

18           (a) Employees, authorized agents, or contract  
19          providers of the department, the Department of Health, or  
20          county agencies responsible for carrying out:

- 21           1. Child or adult protective investigations;  
22           2. Ongoing child or adult protective services;  
23           3. Healthy Start services; or  
24           4. Licensure or approval of adoptive homes, foster  
25          homes, or child care facilities, or family day care homes or  
26          informal child care providers who receive subsidized child  
27          care funding, or other homes used to provide for the care and  
28          welfare of children.

29  
30          Also, employees or agents of the Department of Juvenile  
31          Justice responsible for the provision of services to children,

1 pursuant to chapters 984 and 985, and officials, employees, or  
2 agents of the Florida Statewide Advocacy Council for program  
3 investigation and monitoring activities, including  
4 reconciliation of a complaint pursuant to chapter 402.

5 (c) The state attorney of the judicial circuit in  
6 which the child resides or in which the alleged abuse or  
7 neglect occurred and the Florida local advocacy council for  
8 the service area in which the alleged abuse or neglect  
9 occurred.

10 (k) Any appropriate official of the a Florida  
11 Statewide Advocacy Council investigating a report of known or  
12 suspected child abuse, abandonment, or neglect; the Auditor  
13 General or the Office of Program Policy Analysis and  
14 Government Accountability for the purpose of conducting audits  
15 or examinations pursuant to law; or the guardian ad litem for  
16 the child.

17 (4) The name of any person reporting child abuse,  
18 abandonment, or neglect may not be released to any person  
19 other than employees of the department responsible for child  
20 protective services, the central abuse hotline, law  
21 enforcement, the child protection team, the Florida Statewide  
22 Advocacy Council, the appropriate Florida local advocacy  
23 council, or the appropriate state attorney, ~~without the~~  
24 written consent of the person reporting. This does not  
25 prohibit the subpoenaing of a person reporting child abuse,  
26 abandonment, or neglect when deemed necessary by the court,  
27 the state attorney, ~~or~~ the department, the Florida Statewide  
28 Advocacy Council, or the appropriate Florida local advocacy  
29 council, provided the fact that such person made the report is  
30 not disclosed. Any person who reports a case of child abuse or  
31 neglect may, at the time he or she makes the report, request

1 that the department notify him or her that a child protective  
2 investigation occurred as a result of the report. Any person  
3 specifically listed in s. 39.201(1) who makes a report in his  
4 or her official capacity may also request a written summary of  
5 the outcome of the investigation. The department shall mail  
6 such a notice to the reporter within 10 days after completing  
7 the child protective investigation.

8 (5) All records and reports of the child protection  
9 team of the Department of Health are confidential and exempt  
10 from the provisions of ss. 119.07(1) and 456.057, and shall  
11 not be disclosed, except, upon request, to the state attorney,  
12 law enforcement, the department, the Florida Statewide  
13 Advocacy Council, the appropriate Florida local advocacy  
14 council,and necessary professionals, in furtherance of the  
15 treatment or additional evaluative needs of the child, by  
16 order of the court, or to health plan payors, limited to that  
17 information used for insurance reimbursement purposes.

18 Section 2. Section 163.62, Florida Statutes, is  
19 amended to read:

20 163.62 Collaborative client information system;  
21 establishment.--Notwithstanding any general or special law to  
22 the contrary, the agencies of one or more local governments  
23 may establish a collaborative client information system. State  
24 agencies and private agencies may participate in the  
25 collaborative information system. Data related to the  
26 following areas may be included in the collaborative  
27 information system, although the system is not limited to only  
28 these types of information: criminal justice, juvenile  
29 justice, education, employment training, health, and human  
30 services. The Florida Statewide Advocacy Council and the  
31 Florida local advocacy councils shall have access to all

1 collaborative client information upon request as provided in  
2 ss. 402.164-402.167.

3 Section 3. Paragraph (a) of subsection (6) of section  
4 215.5601, Florida Statutes, is amended to read:

5 215.5601 Lawton Chiles Endowment Fund.--

6 (6) ADVISORY COUNCIL.--The Lawton Chiles Endowment  
7 Fund Advisory Council is established for the purpose of  
8 reviewing the funding priorities of the state agencies,  
9 evaluating their requests against the mission and goals of the  
10 agencies and legislative intent for the use of endowment  
11 funds, and allowing for public input and advocacy.

12 (a) The advisory council shall consist of 15 members,  
13 including:

14 1. The director of the United Way of Florida, Inc., or  
15 his or her designee;

16 2. The director of the Foster Parents Association, or  
17 his or her designee;

18 3. The chair of the Department of Elderly Affairs  
19 Advisory Council, or his or her designee;

20 4. The president of the Florida Association of Area  
21 Agencies on Aging, or his or her designee;

22 5. The Advocate General of the Florida Statewide  
23 Advocacy Council ~~State Long-Term Care Ombudsman~~, or his or her  
24 designee;

25 6. The state director of the Florida AARP, or his or  
26 her designee;

27 7. The director of the Florida Pediatric Society, or  
28 his or her designee;

29 8. A representative of the Guardian Ad Litem Program,  
30 appointed by the Advocate General of the Florida Statewide  
31 Advocacy Council ~~Governor~~;

1           9. A representative of a child welfare lead agency for  
2 community-based care, appointed by the Governor;

3           10. A representative of an elder care lead agency for  
4 community-based care, appointed by the Governor;

5           11. A representative of a statewide child advocacy  
6 organization, appointed by the Governor and the Advocate  
7 General of the Florida Statewide Advocacy Council;

8           12. One consumer caregiver for children, appointed by  
9 the Governor;

10          13. One person over the age of 60 years to represent  
11 the interests of elders, appointed by the Governor;

12          14. One person under the age of 18 years to represent  
13 the interests of children, appointed by the Governor; and

14          15. One consumer caregiver for a functionally impaired  
15 elderly person, appointed by the Governor.

16          Section 4. Subsections (5) and (6) of section  
17 394.4615, Florida Statutes, are amended to read:

18           394.4615 Clinical records; confidentiality.--

19           (5) Information from clinical records may be used by  
20 the Agency for Health Care Administration, the department, and  
21 the Florida Statewide Advocacy Council or the appropriate  
22 Florida local advocacy council ~~councils~~ for the purpose of  
23 monitoring facility activity and investigating complaints  
24 concerning facilities. Clinical records may be copied at the  
25 expense of the facility upon demand of an official, employee,  
26 or agent of the Florida Statewide Advocacy Council or the  
27 appropriate Florida local advocacy council in accordance with  
28 the provisions of s. 402.165 or s. 402.166.

29           (6) Clinical records relating to a Medicaid recipient  
30 shall be furnished to the Medicaid Fraud Control Unit in the  
31 Department of Legal Affairs and the Florida Statewide Advocacy



1 Council or the appropriate Florida local advocacy council,  
2 upon request.

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

5 395.3025 Patient and personnel records; copies;  
6 examination.--

7 (4) Patient records are confidential and must not be  
8 disclosed without the consent of the person to whom they  
9 pertain, but appropriate disclosure may be made without such  
10 consent to:

11 (h) The Statewide Advocacy State Long-Term Care  
12 ~~Ombudsman~~ Council and the local advocacy long-term care  
13 ~~ombudsman~~ councils, with respect to the records of a patient  
14 who has been admitted from a nursing home or long-term care  
15 facility, when the councils are conducting an investigation  
16 involving the patient as authorized under part II of chapter  
17 400, upon presentation of identification as a council member  
18 by the person making the request. ~~Disclosure under this~~  
19 ~~paragraph shall only be made after a competent patient or the~~  
20 ~~patient's representative has been advised that disclosure may~~  
21 ~~be made and the patient has not objected.~~

22 Section 6. Paragraph (a) of subsection (2) of section  
23 400.118, Florida Statutes, is amended to read:

24 400.118 Quality assurance; early warning system;  
25 monitoring; rapid response teams.--

26 (2)(a) The agency shall establish within each district  
27 office one or more quality-of-care monitors, based on the  
28 number of nursing facilities in the district, to monitor all  
29 nursing facilities in the district on a regular, unannounced,  
30 aperiodic basis, including nights, evenings, weekends, and  
31 holidays. Quality-of-care monitors shall visit each nursing

1 facility at least quarterly. Priority for additional  
2 monitoring visits shall be given to nursing facilities with a  
3 history of resident care deficiencies. Quality-of-care  
4 monitors shall be registered nurses who are trained and  
5 experienced in nursing facility regulation, standards of  
6 practice in long-term care, and evaluation of patient care.  
7 Individuals in these positions shall not be deployed by the  
8 agency as a part of the district survey team in the conduct of  
9 routine, scheduled surveys, but shall function solely and  
10 independently as quality-of-care monitors. Quality-of-care  
11 monitors shall assess the overall quality of life in the  
12 nursing facility and shall assess specific conditions in the  
13 facility directly related to resident care, including the  
14 operations of internal quality improvement and risk management  
15 programs and adverse incident reports. The quality-of-care  
16 monitor shall include in an assessment visit observation of  
17 the care and services rendered to residents and formal and  
18 informal interviews with residents, family members, facility  
19 staff, resident guests, volunteers, other regulatory staff,  
20 and representatives of the ~~a long-term care ombudsman council~~  
21 ~~or~~ Florida Statewide Advocacy Council or the appropriate  
22 Florida local advocacy council.

23 Section 7. Paragraph (i) of subsection (1) of section  
24 400.408, Florida Statutes, is amended to read:

25 400.408 Unlicensed facilities; referral of person for  
26 residency to unlicensed facility; penalties; verification of  
27 licensure status.--

28 (1)

29 (i) Each field office of the Agency for Health Care  
30 Administration shall establish a local coordinating workgroup  
31 which includes representatives of local law enforcement

1 agencies, state attorneys, local fire authorities, the  
2 Department of Children and Family Services, ~~the district~~  
3 ~~long-term care ombudsman council,~~ and the local ~~district human~~  
4 ~~rights~~ advocacy committee to assist in identifying the  
5 operation of unlicensed facilities and to develop and  
6 implement a plan to ensure effective enforcement of state laws  
7 relating to such facilities. The workgroup shall report its  
8 findings, actions, and recommendations semiannually to the  
9 Director of Health Facility Regulation of the agency.

10 Section 8. Section 402.164, Florida Statutes, is  
11 amended to read:

12 402.164 Legislative intent; definitions.--

13 (1)(a) It is the intent of the Legislature to use  
14 citizen volunteers as members of the Florida Statewide  
15 Advocacy Council and the Florida local advocacy councils, and  
16 to have the Florida Statewide Advocacy Council ~~volunteers~~  
17 operate a network of local advocacy councils that shall,  
18 without interference by an executive agency, undertake to  
19 discover, monitor, investigate, and determine the presence of  
20 conditions or individuals that constitute a threat to the  
21 rights, health, safety, or welfare of persons who receive  
22 services from state agencies.

23 (b) It is the further intent of the Legislature that  
24 the monitoring and investigation shall safeguard the health,  
25 safety, and welfare of consumers of services provided by these  
26 state agencies. The Legislature finds that the government  
27 oversight role of the members of the Florida Statewide  
28 Advocacy Council and the Florida local advocacy councils is  
29 necessary to ensure the protection and advocacy of all  
30 Floridians that receive both state and federal health and  
31 human services from state agencies. The Legislature further

1 finds that through the performance of the vital oversight  
2 duties and responsibilities by these citizen volunteers, the  
3 Florida Health and Human Services Access Act will be  
4 preserved.

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

6 (a) "Client" means any person who receives client  
7 services as defined in s. 402.164(2)(b), including, but not  
8 limited to, a client as defined in s. 393.063, s. 394.67, s.  
9 397.311, or s. 400.960, a forensic client or client as defined  
10 in s. 916.106, a child, minor, or youth as defined in s.  
11 39.01, s. 61.401, s. 92.53, s. 390.01115, or s. 411.202, a  
12 child as defined in s. 827.01, a family as defined in s.  
13 414.0252, a participant as defined in s. 400.551, a resident  
14 as defined in s. 400.402, a Medicaid recipient or recipient as  
15 defined in s. 409.901, a child receiving childcare as defined  
16 in s. 402.302, a disabled adult as defined in s. 410.032 or s.  
17 410.603, or a victim as defined in s. 39.01, s. 92.53, or s.  
18 415.102, or s. 914.17 as each definition applies within its  
19 respective chapter. "Client" also means an inmate as defined  
20 in s. 397.753, a child as defined in s. 984.03, s. 985.03, or  
21 s. 985.418, an exceptional student as defined in s.  
22 1003.01(3)(a) or s. 1001.42(4)(1), a recipient of school-based  
23 services in s. 1011.70, a newborn infant as defined in s.  
24 63.0423, or an unborn person as defined in s. 731.303.

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

29 Section 9. Section 402.165, Florida Statutes, is  
30 amended to read:  
31

1           402.165 Florida Statewide Advocacy Council;  
2 confidential records and meetings.--  
3           (1) The Statewide Human Rights Advocacy Committee  
4 within the Department of Children and Family Services is  
5 redesignated as the Florida Statewide Advocacy Council and  
6 shall be administratively housed as an independent state  
7 agency within the Justice Administrative Commission by a type  
8 two transfer to the Department of Management Services. Members  
9 of the council shall represent the interests of clients who  
10 are served by state agencies that provide client services. The  
11 Justice Administrative Commission ~~Department of Children and~~  
12 ~~Family Services~~ shall provide administrative support and  
13 service to the statewide council to the extent requested by  
14 the executive director ~~within available resources.~~ The  
15 statewide council is not subject to control, supervision, or  
16 direction by any state agency ~~the Department of Children and~~  
17 ~~Family Services~~ in the performance of its duties. The council  
18 shall consist of 20 ~~15~~ residents of this state, one from each  
19 service area designated by the statewide council, who broadly  
20 represent the interests of the public and the clients of the  
21 state agencies that provide client services. The members shall  
22 be representative of four groups of state residents as  
23 follows: one provider who delivers client services as defined  
24 in s. 402.164(2); two nonsalaried representatives of nonprofit  
25 agencies or civic groups; four representatives of consumer  
26 groups who are currently receiving, or have received, client  
27 services within the past 4 years, at least one of whom must be  
28 a consumer of one or more client services; and two residents  
29 of the state who do not represent any of the foregoing groups,  
30 one of whom represents the health-related professions and one  
31 of whom represents the legal profession. In appointing the

1 representative of the health-related professions, the  
2 appointing authority shall give priority of consideration to a  
3 physician licensed under chapter 458 or chapter 459; and, in  
4 appointing the representative of the legal profession, the  
5 appointing authority shall give priority of consideration to a  
6 member in good standing of The Florida Bar. Of the remaining  
7 members, no more than one shall be an elected official; no  
8 more than one shall be a health professional; no more than one  
9 shall be a legal professional; no more than one shall be a  
10 provider; no more than two shall be nonsalaried  
11 representatives of nonprofit agencies or civic groups; and no  
12 more than one shall be an individual whose primary area of  
13 interest, experience, or expertise is a major client group of  
14 a client services group that is not represented on the council  
15 at the time of appointment. Except for the member who is an  
16 elected public official, each member of the statewide council  
17 must have served as a member of a Florida local advocacy  
18 council, with priority consideration given to an applicant who  
19 has served a full term on a local council. Persons related to  
20 each other by consanguinity or affinity within the third  
21 degree may not serve on the statewide council at the same  
22 time.

23 (2) Members of the statewide council shall be  
24 appointed to serve terms of 6 ~~4~~ years. A member may not serve  
25 more than two full consecutive terms. The terms of members  
26 currently serving a term of 4 years are extended by 2  
27 additional years.

28 (3) If a member of the statewide council fails to  
29 attend two-thirds of the regular council meetings during the  
30 course of a year, the position held by the member may be  
31 deemed vacant by the council. The Governor shall fill the

1 vacancy pursuant to subsection (4). If a member of the  
2 statewide council violates this section or procedures adopted  
3 under this section, the council may recommend to the Governor  
4 that the member be removed.

5 (4) The Governor shall fill each vacancy on the  
6 statewide council from a list of nominees submitted by the  
7 statewide council. A list of candidates may be submitted to  
8 the statewide council by the local council in the service area  
9 from which the vacancy occurs. Priority of consideration shall  
10 be given to the appointment of an individual who is receiving  
11 one or more client services and whose primary interest,  
12 experience, or expertise lies with a major client group that  
13 is not represented on the council at the time of the  
14 appointment. If an appointment is not made within 60 days  
15 after a vacancy occurs on the statewide council, the vacancy  
16 may be filled by a majority vote of the statewide council  
17 without further action by the Governor. A person who is  
18 employed by any state agency in client services may not be  
19 appointed to the statewide council.

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

23 (b) The council shall select an executive director who  
24 shall serve at the pleasure of the council and shall perform  
25 the duties delegated to him or her by the council. The  
26 compensation of the executive director and staff shall be  
27 established in accordance with the rules of the Selected  
28 Exempt Service.

29 (c) The council may apply for, receive, and accept  
30 grants, gifts, donations, bequests, and other payments  
31 including money or property, real or personal, tangible or

1 intangible, and service from any governmental or other public  
2 or private entity or person and make arrangements as to the  
3 use of same. The council may create a foundation for such  
4 purposes.

5 (d) The statewide council shall annually prepare a  
6 legislative budget request that is not to be changed by the  
7 Justice Administrative Commission ~~department staff~~ after it is  
8 approved by the council and, ~~but~~ shall be submitted to the  
9 Governor for inclusion in the Governor's legislative budget  
10 request and transmittal to the Legislature. The budget shall  
11 include a request for funds to carry out the activities of the  
12 statewide council and the local councils.

13 (6) The members of the statewide council shall elect a  
14 chair, who shall also serve in the capacity of Advocate  
15 General for the State of Florida, and a vice chair, who shall  
16 also serve in the capacity of Lieutenant Advocate General for  
17 the State of Florida, to terms of 2 years ~~1 year~~. A person may  
18 not serve as chair or vice chair for more than two full  
19 consecutive terms.

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

22 (a) Serving as an independent third-party mechanism  
23 within Florida state government for protecting the  
24 constitutional and human rights of clients within programs or  
25 facilities operated, funded, or contracted by any state agency  
26 that provides client services.

27 (b) Monitoring by site visit and access to ~~inspection~~  
28 ~~of~~ records the delivery and use of services, programs, or  
29 facilities operated, funded, or contracted by any state agency  
30 that provides client services, for the purpose of preventing  
31 abuse or deprivation of the constitutional and human rights of



1 clients. The statewide council may conduct an unannounced site  
2 visit or monitoring visit and must be provided access to that  
3 ~~involves the inspection of~~ records if the visit is conditioned  
4 upon a complaint. A complaint may be generated by the council  
5 itself if information from any state agency that provides  
6 client services or from other sources indicates a situation at  
7 the program or facility that indicates possible abuse or  
8 neglect or deprivation of the constitutional and human rights  
9 of clients. For the purposes of this section, the term  
10 "provided access to records" means a visual inspection of such  
11 records is permitted and a copy of the hard-copy or electronic  
12 version of the records maintained is made available by the  
13 state agency, facility, provider, or contractor.The statewide  
14 council shall establish and follow uniform criteria for the  
15 review of information and generation of complaints. Routine  
16 program monitoring and reviews that do not require an  
17 examination of records may be made unannounced.

18 (c) Receiving, investigating, and resolving reports of  
19 abuse or deprivation of constitutional and human rights  
20 referred to the statewide council by a local council. If a  
21 matter constitutes a threat to the life, safety, or health of  
22 clients or is multiservice-area ~~multidistrict~~ in scope, the  
23 statewide council may exercise such powers without the  
24 necessity of a referral from a local council.

25 (d) Reviewing existing programs or services and new or  
26 revised programs of the state agencies that provide client  
27 services and making recommendations as to how the rights of  
28 clients are affected. State agencies shall notify the  
29 executive director of the statewide council as to each new or  
30 revised statewide program within 60 days prior to  
31 implementation to provide the council a reasonable period of

1 time to determine how the rights of clients are affected by  
2 such revision or implementation of such program.

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

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

10 (g) Adopting rules pursuant to ss. 120.536(1) and  
11 120.54 to implement the provisions of this section, including,  
12 at a minimum:

13 1. Providing uniform procedures for gaining access to  
14 and maintaining confidential information.

15 2. Developing and adopting uniform statewide  
16 procedures to be used to carry out the operations purpose and  
17 responsibilities of the statewide council and the local  
18 councils, which procedures shall include, but need not be  
19 limited to, the following:

20 a.1. The responsibilities of the statewide council and  
21 the local councils;

22 b.2. The organization and operation of the statewide  
23 council and the local councils, including procedures for  
24 replacing a member, formats for maintaining records of council  
25 activities, and criteria for determining what constitutes a  
26 conflict of interest for purposes of assigning and conducting  
27 investigations and monitoring;

28 c.3. Uniform procedures for the statewide council and  
29 the local councils relating to receiving and investigating  
30 reports of abuse or deprivation of constitutional or human  
31 rights;

1           ~~4. The responsibilities and relationship of the local~~  
2 ~~councils to the statewide council;~~

3           d.5. The relationship of the statewide council to the  
4 state agencies that receive and investigate reports of abuse  
5 and neglect of clients of state agencies, including the way in  
6 which reports of findings and recommendations related to  
7 reported abuse or neglect are issued ~~given~~ to the appropriate  
8 state agency that provides client services;

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

11           f.7. Procedures for appeal. An appeal to the statewide  
12 council is made by a local council when a valid complaint is  
13 not resolved at the local level. The statewide council may  
14 appeal an unresolved complaint to the secretary or director of  
15 the appropriate state agency that provides client services.  
16 If, after exhausting all remedies, the statewide council is  
17 not satisfied that the complaint can be resolved within the  
18 state agency, the appeal may be referred to the Governor~~r~~

19           ~~8. Uniform procedures for gaining access to and~~  
20 ~~maintaining confidential information; and~~

21           ~~9. Definitions of misfeasance and malfeasance for~~  
22 ~~members of the statewide council and local councils.~~

23           (h) Supervising the operations of the local councils,  
24 monitoring the performance and activities of all local  
25 councils, and providing technical assistance to members and  
26 staff of local councils.

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

29           (j) Ensuring coordination, communication, and  
30 cooperation with the investigation of abuse, neglect, or  
31 exploitation of vulnerable adults by joining with state

1 agencies in developing and maintaining interprogram agreements  
2 or operational procedures among appropriate departmental  
3 programs, the Medicaid Fraud Control Unit, the Governor's  
4 Inspector General, and other agencies that provide services to  
5 clients. These agreements or procedures must cover such  
6 subjects as the appropriate roles and responsibilities of the  
7 state agency in identifying and responding to reports of  
8 abuse, neglect, or exploitation of clients; the provision of  
9 services; and related coordinated activities.

10 (k) Serving in the administration of the State  
11 Medicaid Plan by conducting investigations relating to the  
12 administration of the plan or determining and improving  
13 services to the recipients of the Medicaid program in  
14 accordance with 42 C.F.R. ss. 431.302 and 431.306.

15 (l) Serving as a citizen review panel of the state  
16 plan submitted under the Child Abuse Prevention and Treatment  
17 Act (CAPTA).

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

20 1. Authority to receive, investigate, seek to  
21 conciliate, hold administrative hearings pursuant to chapter  
22 120 on, and act on complaints that allege any abuse or  
23 deprivation of constitutional or human rights of persons who  
24 receive client services from any state agency. In performing  
25 its duties under this subparagraph, the council may issue  
26 declaratory statements pursuant to the provisions of chapter  
27 120.

28 2. Access to all state agency program and service  
29 records and client records, files, and reports from any  
30 program, service, or facility that is operated, funded, or  
31 contracted by any state agency that provides client services

1 and any records that are material to its investigation and are  
2 in the custody of any other agency or department of  
3 government, including law enforcement agencies, public  
4 education facilities, the Medicaid program, and Child  
5 Protective Services. The council's investigation or monitoring  
6 shall not impede or obstruct matters under investigation by  
7 law enforcement agencies or judicial authorities, and in  
8 accordance with s. 20.055, law enforcement agencies and  
9 inspector generals shall allow access of investigative records  
10 to the council. Access shall not be granted if a specific  
11 procedure or prohibition for reviewing records is required by  
12 federal law and regulation that supersedes state law. Access  
13 shall not be granted to the records of a private licensed  
14 practitioner who is providing services outside the state  
15 agency, or outside a state facility, and whose client is  
16 competent and refuses disclosure.

17         3. Standing to seek injunctive relief from petition  
18 the circuit court for denial of access to client records or  
19 state agency program or services records to its members or  
20 members of any of the local advocacy councils that are  
21 ~~confidential as specified by law. The petition shall state the~~  
22 ~~specific reasons for which the council is seeking access and~~  
23 ~~the intended use of such information. The circuit court shall~~  
24 issue a civil fine of \$15,000 to any individual who withheld  
25 client, program, or services records or otherwise denied  
26 access to any records requested by the statewide council or  
27 any of the local advocacy councils ~~may authorize council~~  
28 ~~access to such records upon a finding that such access is~~  
29 ~~directly related to an investigation regarding the possible~~  
30 ~~deprivation of constitutional or human rights or the abuse of~~  
31 ~~a client~~. Original client files, agency records, and reports

1 shall not be removed from a state agency, but copies shall be  
2 provided to the statewide council and the local advocacy  
3 councils at the state agency's expense. Under no circumstance  
4 shall the council have access to confidential adoption records  
5 once the adoption is finalized by a court in accordance with  
6 ss. 39.0132, 63.022, and 63.162. Upon completion of a general  
7 investigation of practices and procedures of a state agency,  
8 the statewide council shall report its findings to that  
9 agency.

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

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

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

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

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

15 Section 10. Section 402.166, Florida Statutes, is  
16 amended to read:

17 402.166 Florida local advocacy councils; confidential  
18 records and meetings.--

19 (1) Each district human rights advocacy committee  
20 within each district ~~service area~~ of the Department of  
21 Children and Family Services is redesignated as the Florida  
22 Local Advocacy Council. The local councils are subject to  
23 direction from and the supervision of the Florida Statewide  
24 Advocacy Council. The Florida Statewide Advocacy Council  
25 ~~Department of Children and Family Services~~ shall assign staff  
26 to provide administrative support to the local councils, and  
27 staff assigned to these positions shall perform the functions  
28 required by the statewide and local advocacy councils without  
29 interference from any state agency ~~the department~~. The  
30 Statewide Advocacy Council member and chair of the local  
31 councils shall direct the activities of staff assigned to them

1 ~~to the extent necessary~~ for the local councils to carry out  
2 their duties. The number and areas of responsibility of the  
3 local councils, not to exceed 60 ~~46~~ councils statewide, shall  
4 be determined by the Florida Statewide Advocacy Council and  
5 shall be consistent with judicial circuit boundaries. Local  
6 councils shall meet at state-licensed facilities under their  
7 jurisdiction whenever possible.

8           (2) Each local council shall have no fewer than 7  
9 members and no more than 15 members, no more than 4 of whom  
10 are or have been recipients of one or more client services  
11 within the last 4 years, except that one member of this group  
12 may be an immediate relative or legal representative of a  
13 current or former client; two providers who deliver client  
14 services as defined in s. 402.164(2); and two representatives  
15 of professional organizations, one of whom represents the  
16 health-related professions and one of whom represents the  
17 legal profession. Priority of consideration shall be given to  
18 the appointment of at least one medical or osteopathic  
19 physician, as defined in chapters 458 and 459, and one member  
20 in good standing of The Florida Bar. Priority of consideration  
21 shall also be given to the appointment of an individual who is  
22 receiving client services and whose primary interest,  
23 experience, or expertise lies with a major client group not  
24 represented on the council at the time of the appointment. A  
25 person who is employed in client services by any state agency  
26 may not be appointed to the council. No more than three  
27 individuals who are providing contracted services for clients  
28 to any state agency may serve on the same local council at the  
29 same time. ~~Persons related to each other by consanguinity or~~  
30 ~~affinity within the third degree may not serve on the same~~  
31 ~~local council at the same time.~~All members of local councils



1 must successfully complete a standardized training course for  
2 council members within 3 months after their appointment to a  
3 local council. A member may not be assigned to an  
4 investigation that requires access to confidential information  
5 prior to the completion of the training course. After he or  
6 she completes the required training course, a member of a  
7 local council may not be prevented from participating in any  
8 activity of that local council, including investigations and  
9 monitoring, except due to a conflict of interest as described  
10 in the procedures established by the statewide council  
11 pursuant to subsection (7).

12 (3)(a) With respect to existing local councils, each  
13 member shall serve a term of 6 ~~4~~ years. Upon expiration of a  
14 term and in the case of any other vacancy, the local council  
15 shall appoint a replacement by majority vote of the local  
16 council, subject to the approval of the Governor. A member may  
17 serve no more than two full consecutive terms.

18 (b)1. The Governor shall appoint the first four  
19 members of any newly created local council; and those four  
20 members shall select the remaining members, subject to  
21 approval of the Governor. If any of the first four members are  
22 not appointed within 60 days after a request is submitted to  
23 the Governor, those members may be appointed by a majority  
24 vote of the statewide council without further action by the  
25 Governor.

26 2. Members shall serve for no more than two full  
27 consecutive terms of 6 ~~4~~ years, except that at the time of  
28 initial appointment, terms shall be staggered so that  
29 approximately one-half of the members first appointed shall  
30 serve for terms of 6 ~~4~~ years and the remaining members shall

31

1 serve for terms of 3 ~~2~~ years. Vacancies shall be filled as  
2 provided in subparagraph 1.

3 (c) If no action is taken by the Governor to approve  
4 or disapprove a replacement of a member pursuant to this  
5 subsection within 30 days after the local council has notified  
6 the Governor of the appointment, then the appointment of the  
7 replacement may be considered approved by the statewide  
8 council.

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

13 (5) If a local council member fails to attend  
14 two-thirds of the regular council meetings during the course  
15 of a year, the local council may replace the member. If a  
16 member of a local council violates this section or procedures  
17 adopted under this section, the local council may recommend to  
18 the Governor that the member be removed.

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

25 (7) A local council shall first seek to resolve a  
26 complaint with the appropriate local administration, agency,  
27 or program; any matter not resolved by the local council shall  
28 be referred to the statewide council through appeal. A local  
29 council shall comply with appeal procedures established by the  
30 statewide council. The duties, actions, and procedures of both  
31 new and existing local councils shall conform to ss.

1 402.164-402.167. The duties of each local council shall  
2 include, but are not limited to:  
3 (a) Serving as an independent third-party mechanism  
4 for protecting the constitutional and human rights of any  
5 client within a program or facility operated, funded, or  
6 contracted by a state agency providing client services in the  
7 local service area.  
8 (b) Monitoring by site visit and access to ~~inspection~~  
9 ~~of~~ records the delivery and use of services, programs, or  
10 facilities operated, funded, or contracted by a state agency  
11 that provides client services, for the purpose of preventing  
12 abuse or deprivation of the constitutional and human rights of  
13 clients. A local council may conduct an unannounced site visit  
14 or monitoring visit and must be provided access to ~~that~~  
15 ~~involves the inspection of~~ records if the visit is conditioned  
16 upon a complaint. A complaint may be generated by the council  
17 itself if information from a state agency that provides client  
18 services or from other sources indicates a situation at the  
19 program or facility that indicates possible abuse or neglect  
20 or deprivation of constitutional and human rights of clients.  
21 For the purposes of this section, the term "provided access to  
22 records" means a visual inspection of such records is  
23 permitted and a copy of the hard-copy or electronic version of  
24 the records maintained is made available by the state agency,  
25 facility, provider, or contractor.The local council shall  
26 follow uniform criteria established by the statewide council  
27 for the review of information and generation of complaints.  
28 Routine program monitoring and reviews that do not require an  
29 examination of records may be made unannounced.  
30  
31

1 (c) Receiving, investigating, and resolving reports of  
2 abuse or deprivation of constitutional and human rights in the  
3 local service area.

4 (d) Reviewing and making recommendations to the  
5 applicable local state agency head or director regarding how a  
6 client's constitutional or human rights might be affected by  
7 the client's participation in a proposed research project,  
8 prior to implementation of the project.

9 ~~(e) Reviewing existing programs and proposed new or~~  
10 ~~revised programs of client services and making recommendations~~  
11 ~~as to how these programs and services affect or might affect~~  
12 ~~the constitutional or human rights of clients.~~

13 (e)(f) Appealing to the statewide council any  
14 complaint unresolved at the local level. Any matter that  
15 constitutes a threat to the life, safety, or health of a  
16 client or is multidistrict in scope shall automatically be  
17 referred to the statewide council.

18 (f)(g) Submitting an annual report by September 30 to  
19 the statewide council concerning activities, recommendations,  
20 and complaints reviewed or developed by the council during the  
21 year.

22 (g)(h) Conducting meetings at least six times a year  
23 at the call of the chair and at other times at the call of the  
24 Governor, at the call of the statewide council, or by written  
25 request of a majority of the members of the council.

26 (8)(a) In the performance of its duties, a local  
27 council shall have the same right to be provided access to all  
28 client records and state agency files and reports from any  
29 program or service and to all records of contract providers or  
30 facilities that are operated by, funded by, or under contract  
31 with any state agency as specified in s. 402.165(8)(a)2. and

1 the same standing to seek injunctive relief for denial of  
2 access to such records as specified in s. 402.165(8)(a)3.+

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

18 ~~2. Standing to petition the circuit court for access~~  
19 ~~to client records that are confidential as specified by law.~~  
20 ~~The petition shall state the specific reasons for which the~~  
21 ~~council is seeking access and the intended use of such~~  
22 ~~information. The court may authorize access to such records~~  
23 ~~upon a finding that such access is directly related to an~~  
24 ~~investigation regarding the possible deprivation of~~  
25 ~~constitutional or human rights or the abuse of a client.~~  
26 ~~Original client files, records, and reports shall not be~~  
27 ~~removed from a state agency. Upon no circumstances shall the~~  
28 ~~council have access to confidential adoption records once the~~  
29 ~~adoption is finalized in court in accordance with ss. 39.0132,~~  
30 ~~63.022, and 63.162. Upon completion of a general investigation~~  
31 ~~of practices and procedures followed by a state agency in~~

1 ~~providing client services, the council shall report its~~  
2 ~~findings to the appropriate state agency.~~

3 (b) All information obtained or produced by a local  
4 council that is made confidential by law, that relates to the  
5 identity of any client or group of clients subject to the  
6 protection of this section, or that relates to the identity of  
7 an individual who provides information to the council about  
8 abuse or about alleged violations of constitutional or human  
9 rights, is confidential and exempt from s. 119.07(1) and s.  
10 24(a), Art. I of the State Constitution.

11 (c) Portions of meetings of a local council that  
12 relate to the identity of any client or group of clients  
13 subject to the protections of this section, that relate to the  
14 identity of an individual who provides information to the  
15 council about abuse or about alleged violations of  
16 constitutional or human rights, or wherein testimony is  
17 provided relating to records otherwise made confidential by  
18 law, are exempt from s. 286.011 and s. 24(b), Art. I of the  
19 State Constitution.

20 (d) All records prepared by members of a local council  
21 that reflect a mental impression, investigative strategy, or  
22 theory are exempt from s. 119.07(1) and s. 24(a), Art. I of  
23 the State Constitution until the investigation is completed or  
24 until the investigation ceases to be active. For purposes of  
25 this section, an investigation is considered "active" while  
26 such investigation is being conducted by a local council with  
27 a reasonable, good faith belief that it may lead to a finding  
28 of abuse or of a violation of constitutional or human rights.  
29 An investigation does not cease to be active so long as the  
30 council is proceeding with reasonable dispatch and there is a  
31

1 good faith belief that action may be initiated by the council  
2 or other administrative or law enforcement agency.

3 (e) Any person who knowingly and willfully discloses  
4 any such confidential information commits a misdemeanor of the  
5 second degree, punishable as provided in s. 775.082 or s.  
6 775.083.

7 Section 11. Section 402.167, Florida Statutes, is  
8 amended to read:

9 402.167 Duties of state agencies that provide client  
10 services relating to the Florida Statewide Advocacy Council  
11 and the Florida local advocacy councils.--

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

16 (a) Procedures by which staff of state agencies refer  
17 reports of abuse or matters that constitute a threat to the  
18 life, health, safety, welfare, or human and constitutional  
19 rights of clients to the Florida Statewide Advocacy Council  
20 and the Florida local advocacy councils.

21 (b) Procedures by which client information is made  
22 available and accessible in both electronic and written form  
23 to members of the Florida Statewide Advocacy Council and the  
24 Florida local advocacy councils.

25 (c) Procedures by which recommendations made by the  
26 statewide and local councils will be incorporated into  
27 policies, ~~and~~ procedures, and rules of the state agencies.

28 (2) The Department of Management Services ~~Children and~~  
29 ~~Family Services~~ shall provide a maximum of 20 acceptable site  
30 locations for the ~~location of~~ local councils' staff for each  
31 of the respective 20 judicial circuits ~~councils~~ in

1 state-owned, state-leased, or state-contracted buildings or  
2 state agency area offices at the approval of the executive  
3 director of the Florida Statewide Advocacy Council. The  
4 department shall make arrangements with state agencies that  
5 are located in state-owned, state-leased, or state-contracted  
6 properties that provide client services under s. 402.164(2) to  
7 house the offices under the Florida Statewide Advocacy  
8 Council. Collocated costs paid by the Statewide Advocacy  
9 Council shall include ~~and shall provide necessary equipment~~  
10 ~~and office supplies, including,~~ but not be limited to, costs  
11 for ~~clerical and word processing services,~~ photocopiers, mail  
12 services, telephone services, computer network access and  
13 related services, security services, janitorial services,  
14 utilities, and parking for staff and state and local council  
15 members ~~and stationery and other necessary supplies, and shall~~  
16 establish the procedures by which council members are  
17 reimbursed for authorized expenditures.

18 (3) The secretaries or directors of the state agencies  
19 shall ensure the full cooperation and assistance of employees  
20 of and contract providers to their respective state agencies  
21 with members and staff of the statewide and local councils.  
22 The secretaries or directors of the state agencies shall  
23 notify all contract providers and service providers of the  
24 powers, duties, and authority of, and the requirement to  
25 provide access to information to, statewide and local council  
26 members under ss. 402.164-402.166. Further, staff positions  
27 that were assigned as of July 1, 2002, to the Florida local  
28 advocacy council or their equivalent FTEs by the Department of  
29 Children and Family Services shall be transferred to the  
30 executive director of the Florida Statewide Advocacy Council  
31 by a type two transfer ~~the Secretary of Children and Family~~



1 ~~Services shall ensure that, to the extent possible, staff~~  
2 ~~assigned to the statewide council and local councils are free~~  
3 ~~of interference from or control by the department in~~  
4 ~~performing their duties relative to those councils.~~

5 (4) The secretaries or directors of the state agencies  
6 shall amend any state plans filed with federal agencies that  
7 provide federal funding of client services as defined in s.  
8 402.164(2) to reflect that the statewide and local advocacy  
9 councils' activities are part of the administration of the  
10 respective state plan.

11 (5) It is the intent of the Legislature that the  
12 Florida Statewide Advocacy Council and local advocacy councils  
13 are to have routine access to protected health information of  
14 the beneficiaries of the health and human services and any  
15 other information that is confidential in nature so that the  
16 legal doctrine of expressio unis est exclusio alterius is  
17 expressly renounced in the event that another statute  
18 specifically fails to specify that the Florida Statewide  
19 Advocacy Council or local advocacy council is to be provided  
20 access to confidential information.

21 Section 12. Section 402.70, Florida Statutes, is  
22 amended to read:

23 402.70 Interagency agreement between state agencies  
24 that provide health and human services and the Florida  
25 Statewide Advocacy Council ~~Department of Health and Department~~  
26 ~~of Children and Family Services.--~~ State agencies ~~The~~  
27 ~~Department of Health and the Department of Children and Family~~  
28 ~~Services~~ shall enter into an interagency agreement to ensure  
29 coordination and cooperation in identifying client  
30 populations, developing service delivery systems, and meeting  
31 the needs of the state's residents. The interagency agreement

1 must address cooperative programmatic issues,  
2 rules-development issues, and any other issues that must be  
3 resolved to ensure the continued working relationship among  
4 the health and human family services programs of the ~~two~~  
5 departments. The state agencies shall enter into an  
6 interagency agreement with the Florida Statewide Advocacy  
7 Council to ensure access and cooperation in identifying and  
8 resolving client complaints and to address programmatic  
9 issues, rules-development issues, and any other issues that  
10 must be resolved to ensure the legislative intent in s.  
11 402.164. In accordance with the provisions of the Health  
12 Insurance Portability and Accountability Act of 1996 (HIPAA)  
13 and other federal privacy laws, the Florida Statewide Advocacy  
14 Council, the Agency for Health Care Administration, the  
15 Medicaid Fraud Control Unit of the Office of the Attorney  
16 General, and the Inspector Governor shall enter into a  
17 data-sharing agreement to ensure coordination and cooperation  
18 of confidential client health information in monitoring,  
19 investigating, protecting, and safeguarding the health,  
20 safety, rights, and welfare of the clients of health and human  
21 services and programs.

22 Section 13. Paragraph (a) of subsection (1) of section  
23 415.1034, Florida Statutes, is amended to read:

24 415.1034 Mandatory reporting of abuse, neglect, or  
25 exploitation of vulnerable adults; mandatory reports of  
26 death.--

27 (1) MANDATORY REPORTING.--

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

29 1. Physician, osteopathic physician, medical examiner,  
30 chiropractic physician, nurse, paramedic, emergency medical  
31

1 technician, or hospital personnel engaged in the admission,  
2 examination, care, or treatment of vulnerable adults;  
3         2. Health professional or mental health professional  
4 other than one listed in subparagraph 1.;  
5         3. Practitioner who relies solely on spiritual means  
6 for healing;  
7         4. Nursing home staff; assisted living facility staff;  
8 adult day care center staff; adult family-care home staff;  
9 social worker; or other professional adult care, residential,  
10 or institutional staff;  
11         5. State, county, or municipal criminal justice  
12 employee or law enforcement officer;  
13         6. An employee of the Department of Business and  
14 Professional Regulation conducting inspections of public  
15 lodging establishments under s. 509.032;  
16         7. Florida Statewide Advocacy Council or local  
17 advocacy council member ~~or long-term care ombudsman council~~  
18 ~~member~~; or  
19         8. Bank, savings and loan, or credit union officer,  
20 trustee, or employee,  
21  
22 who knows, or has reasonable cause to suspect, that a  
23 vulnerable adult has been or is being abused, neglected, or  
24 exploited shall immediately report such knowledge or suspicion  
25 to the central abuse hotline.  
26         Section 14. Subsection (1) of section 415.104, Florida  
27 Statutes, is amended to read:  
28         415.104 Protective investigations of cases of abuse,  
29 neglect, or exploitation of vulnerable adults; transmittal of  
30 records to state attorney.--  
31

1           (1) The department shall, upon receipt of a report  
2 alleging abuse, neglect, or exploitation of a vulnerable  
3 adult, begin within 24 hours a protective investigation of the  
4 facts alleged therein. If a caregiver refuses to allow the  
5 department to begin a protective investigation or interferes  
6 with the conduct of such an investigation, the appropriate law  
7 enforcement agency shall be contacted for assistance. If,  
8 during the course of the investigation, the department has  
9 reason to believe that the abuse, neglect, or exploitation is  
10 perpetrated by a second party, the appropriate law enforcement  
11 agency and state attorney shall be orally notified. The  
12 department and the law enforcement agency shall cooperate to  
13 allow the criminal investigation to proceed concurrently with,  
14 and not be hindered by, the protective investigation. The  
15 department shall make a preliminary written report to the law  
16 enforcement agencies within 5 working days after the oral  
17 report. The department shall, within 24 hours after receipt of  
18 the report, notify the appropriate Florida local advocacy  
19 council, or long-term care ombudsman council, when  
20 appropriate, that an alleged abuse, neglect, or exploitation  
21 perpetrated by a second party has occurred. The department  
22 must also provide to the Florida Statewide Advocacy Council or  
23 the appropriate local advocacy council the initial report on  
24 any adult or group of adults that such council requests either  
25 in writing or verbally. Notice to the Florida local advocacy  
26 council or long-term care ombudsman council may be  
27 accomplished ~~orally or~~ in writing and shall include the name  
28 and location of the vulnerable adult alleged to have been  
29 abused, neglected, or exploited and the nature of the report.

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

1 415.1055 Notification to administrative entities.--

2 (8) At the conclusion of a protective investigation at  
3 a facility, the department shall notify either the Florida  
4 local advocacy council or long-term care ombudsman council of  
5 the results of the investigation. The department must also  
6 provide to the Florida Statewide Advocacy Council or the  
7 appropriate local advocacy council the results of any  
8 investigation that such council requests in writing within 7  
9 days.~~This notification must be in writing.~~

10 Section 16. Paragraph (g) of subsection (3) of section  
11 415.107, Florida Statutes, is amended to read:

12 415.107 Confidentiality of reports and records.--

13 (3) Access to all records, excluding the name of the  
14 reporter which shall be released only as provided in  
15 subsection (6), shall be granted only to the following  
16 persons, officials, and agencies:

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

21 Section 17. Section 775.0823, Florida Statutes, is  
22 amended to read:

23 775.0823 Violent offenses committed against law  
24 enforcement officers, correctional officers, state attorneys,  
25 assistant state attorneys, executive branch officials and  
26 employees, justices, or judges.--The Legislature does hereby  
27 provide for an increase and certainty of penalty for any  
28 person convicted of a violent offense against any law  
29 enforcement or correctional officer, as defined in s.  
30 943.10(1), (2), (3), (6), (7), (8), or (9); against any state  
31 attorney elected pursuant to s. 27.01 or assistant state

1 attorney appointed under s. 27.181; against any state official  
2 or employee of the executive branch as described in chapter  
3 20;or against any justice or judge of a court described in  
4 Art. V of the State Constitution, which offense arises out of  
5 or in the scope of the officer's duty as a law enforcement or  
6 correctional officer, the state attorney's or assistant state  
7 attorney's duty as a prosecutor or investigator, the state  
8 official's or employee's duty as an enforcer, investigator or  
9 monitor,or the justice's or judge's duty as a judicial  
10 officer, as follows:

11 (1) For murder in the first degree as described in s.  
12 782.04(1), if the death sentence is not imposed, a sentence of  
13 imprisonment for life without eligibility for release.

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

17 (3) For murder in the second degree as described in s.  
18 782.04(2) and (3), a sentence pursuant to s. 775.082, s.  
19 775.083, or s. 775.084.

20 (4) For attempted murder in the second degree as  
21 described in s. 782.04(2) and (3), a sentence pursuant to s.  
22 775.082, s. 775.083, or s. 775.084.

23 (5) For murder in the third degree as described in s.  
24 782.04(4), a sentence pursuant to s. 775.082, s. 775.083, or  
25 s. 775.084.

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

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

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

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

5           (10) For aggravated assault as described in s.  
6 784.021, a sentence pursuant to s. 775.082, s. 775.083, or s.  
7 775.084.

8  
9 Notwithstanding the provisions of s. 948.01, with respect to  
10 any person who is found to have violated this section,  
11 adjudication of guilt or imposition of sentence shall not be  
12 suspended, deferred, or withheld.

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

15           784.07 Assault or battery of law enforcement officers,  
16 firefighters, emergency medical care providers, public transit  
17 employees or agents, or other specified officers;  
18 reclassification of offenses; minimum sentences.--

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

20           (a) "Law enforcement officer" includes a law  
21 enforcement officer, a correctional officer, a correctional  
22 probation officer, a part-time law enforcement officer, a  
23 part-time correctional officer, an auxiliary law enforcement  
24 officer, and an auxiliary correctional officer, as those terms  
25 are respectively defined in s. 943.10, and any county  
26 probation officer; employee or agent of the Department of  
27 Corrections who supervises or provides services to inmates;  
28 officer of the Parole Commission; and law enforcement  
29 personnel of the Fish and Wildlife Conservation Commission,  
30 the Department of Environmental Protection, or the Department  
31 of Law Enforcement.

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

6 (c) "Emergency medical care provider" means an  
7 ambulance driver, emergency medical technician, paramedic,  
8 registered nurse, physician as defined in s. 401.23, medical  
9 director as defined in s. 401.23, or any person authorized by  
10 an emergency medical service licensed under chapter 401 who is  
11 engaged in the performance of his or her duties. The term  
12 "emergency medical care provider" also includes physicians,  
13 employees, agents, or volunteers of hospitals as defined in  
14 chapter 395, who are employed, under contract, or otherwise  
15 authorized by a hospital to perform duties directly associated  
16 with the care and treatment rendered by the hospital's  
17 emergency department or the security thereof.

18 (d) "Public transit employees or agents" means bus  
19 operators, train operators, revenue collectors, security  
20 personnel, equipment maintenance personnel, or field  
21 supervisors, who are employees or agents of a transit agency  
22 as described in s. 812.015(1)(1).

23 (e) "Other specified officer" means a Child Protection  
24 Services investigator or a member, employee, or agent of the  
25 Florida Statewide Advocacy Council and Florida local advocacy  
26 council.

27 (2) Whenever any person is charged with knowingly  
28 committing an assault or battery upon a law enforcement  
29 officer, a firefighter, an emergency medical care provider, a  
30 traffic accident investigation officer as described in s.  
31 316.640, a traffic infraction enforcement officer as described



1 in s. 316.640, a parking enforcement specialist as defined in  
2 s. 316.640, ~~or~~ a security officer employed by the board of  
3 trustees of a community college, or another specified officer,  
4 while the officer, firefighter, emergency medical care  
5 provider, intake officer, traffic accident investigation  
6 officer, traffic infraction enforcement officer, parking  
7 enforcement specialist, public transit employee or agent, ~~or~~  
8 security officer, or other specified officer is engaged in the  
9 lawful performance of his or her duties, the offense for which  
10 the person is charged shall be reclassified as follows:

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

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

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

17 Notwithstanding any other provision of law, any person  
18 convicted of aggravated assault upon a law enforcement officer  
19 shall be sentenced to a minimum term of imprisonment of 3  
20 years.

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

23 Notwithstanding any other provision of law, any person  
24 convicted of aggravated battery of a law enforcement officer  
25 shall be sentenced to a minimum term of imprisonment of 5  
26 years.

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

28  
29  
30  
31