

CHAMBER ACTION

1 The Committee on Future of Florida's Families recommends the
2 following:

3
4 **Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to the statewide and local advocacy
8 councils; amending s. 402.164, F.S.; providing
9 definitions; amending s. 402.165, F.S.; requiring the
10 Florida Statewide Advocacy Council to be located in the
11 Executive Office of the Governor; removing the requirement
12 for the Department of Children and Family Services to
13 provide administrative support; revising the membership of
14 the statewide advocacy council; providing priority
15 consideration for certain members; requiring the Governor
16 to select an executive director; providing that such
17 director shall serve at the pleasure of the Governor;
18 removing a restriction on the preparation of the annual
19 budget; requiring the council to consult with the Governor
20 before generating a complaint; revising council duties and
21 responsibilities; directing the council to establish
22 interagency agreements with certain state agencies;
23 requiring copies of certain files, records, and reports to

24 | be provided to the council at the agency's expense;
 25 | amending s. 402.166, F.S.; deleting references to
 26 | administration by the department; providing clarification
 27 | for duties performed by a local council; revising the
 28 | period in which the Governor may approve or disapprove an
 29 | appointment; removing authority to review certain
 30 | programs; providing that the local council has the same
 31 | authority to access records from facilities, programs, and
 32 | clients as does the statewide advocacy council; amending
 33 | s. 402.167, F.S.; directing each state agency that
 34 | provides client services to provide certain information
 35 | about the statewide advocacy and local councils;
 36 | transferring the local advocacy councils, certain
 37 | positions, and a toll-free complaint line by a type two
 38 | transfer from the Department of Children and Family
 39 | Services to the Florida Statewide Advocacy Council;
 40 | directing the department to identify positions; providing
 41 | an effective date.

42 |
 43 | Be It Enacted by the Legislature of the State of Florida:
 44 |

45 | Section 1. Paragraph (b) of subsection (2) of section
 46 | 402.164, Florida Statutes, is amended, and paragraphs (c) and
 47 | (d) are added to said subsection, to read:

48 | 402.164 Legislative intent; definitions.--
 49 | (2) As used in ss. 402.164-402.167, the term:

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50 (b) "Client services" means services that ~~which~~ are
 51 provided to a client by a state agency or a service provider
 52 operated, funded, or contracted by the state.

53 (c) "Council" or "statewide council" means the Florida
 54 Statewide Advocacy Council.

55 (d) "Local council" or "local advocacy council" means a
 56 local advocacy council located in this state under the
 57 supervision of the Florida Statewide Advocacy Council.

58 Section 2. Section 402.165, Florida Statutes, is amended
 59 to read:

60 402.165 Florida Statewide Advocacy Council; confidential
 61 records and meetings.--

62 (1) ~~The Statewide Human Rights Advocacy Committee within~~
 63 ~~the Department of Children and Family Services is redesignated~~
 64 ~~as~~ The Florida Statewide Advocacy Council shall be located in
 65 the Executive Office of the Governor but may be assigned by the
 66 Governor for administrative support purposes to any Governor's
 67 agency. Members of the council shall represent the interests of
 68 clients who are served by state agencies that provide client
 69 services. ~~The Department of Children and Family Services shall~~
 70 ~~provide administrative support and service to the statewide~~
 71 ~~council to the extent requested by the executive director within~~
 72 ~~available resources.~~ The statewide council is not subject to
 73 control, supervision, or direction by any state agency providing
 74 client services ~~the Department of Children and Family Services~~
 75 in the performance of its duties. The council shall consist of
 76 not fewer than 15 and not more than 20 residents of this state,
 77 one from each service area designated by the statewide council,

78 | who broadly represent the interests of the public and the
 79 | clients of the state agencies that provide client services. The
 80 | members shall be representative of ~~four~~ groups of state
 81 | residents as follows: a ~~one~~ provider who delivers client
 82 | services ~~as defined in s. 402.164(2); a two~~ nonsalaried
 83 | representative ~~representatives~~ of nonprofit agencies or civic
 84 | groups; a representative ~~four representatives~~ of consumer groups
 85 | who is ~~are~~ currently receiving, or has ~~have~~ received, one or
 86 | more client services within the past 4 years, ~~at least one of~~
 87 | ~~whom must be a consumer of one or more client services; and two~~
 88 | residents of the state who do not represent any of the foregoing
 89 | groups but may represent a, ~~one of whom represents the health-~~
 90 | related profession or ~~professions and one of whom represents the~~
 91 | legal profession. In appointing the representative of a ~~the~~
 92 | health-related profession ~~professions~~, the appointing authority
 93 | shall give priority of consideration to a physician licensed
 94 | under chapter 458 or chapter 459; and, in appointing the
 95 | representative of the legal profession, the appointing authority
 96 | shall give priority of consideration to a member in good
 97 | standing of The Florida Bar. Of the remaining members, no more
 98 | than one shall be an elected official; ~~no more than one shall be~~
 99 | ~~a health professional; no more than one shall be a legal~~
 100 | ~~professional; no more than one shall be a provider; no more than~~
 101 | ~~two shall be nonsalaried representatives of nonprofit agencies~~
 102 | ~~or civic groups; and no more than one shall be an individual~~
 103 | ~~whose primary area of interest, experience, or expertise is a~~
 104 | ~~major client group of a client services group that is not~~
 105 | ~~represented on the council at the time of appointment. Except~~

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106 | for the member who is an elected public official, each member of
 107 | the statewide council must be given priority consideration if he
 108 | or she has ~~have~~ served as a member of a ~~Florida advocacy~~
 109 | ~~council, with priority consideration given to an applicant who~~
 110 | ~~has served a full term on a~~ local council. Persons related to
 111 | each other by consanguinity or affinity within the third degree
 112 | may not serve on the statewide council at the same time.

113 | (2) Members of the statewide council shall be appointed to
 114 | serve terms of 4 years. A member may not serve more than two
 115 | full consecutive terms.

116 | (3) If a member of the statewide council fails to attend
 117 | two-thirds of the regular council meetings during the course of
 118 | a year, the position held by the member may be deemed vacant by
 119 | the council. The Governor shall fill the vacancy according
 120 | ~~pursuant~~ to subsection (4). If a member of the statewide council
 121 | violates this section or procedures adopted under this section,
 122 | the council may recommend to the Governor that the member be
 123 | removed.

124 | (4) The Governor may ~~shall~~ fill a ~~each~~ vacancy on the
 125 | statewide council from a list of nominees submitted by the
 126 | statewide council or appoint any qualified person. A list of
 127 | candidates may be submitted to the statewide council by the
 128 | local council in the service area from which the vacancy occurs.
 129 | Priority of consideration shall be given to the appointment of
 130 | an individual who is receiving one or more client services and
 131 | whose primary interest, experience, or expertise lies with a
 132 | major client group that is not represented on the council at the
 133 | time of the appointment. If an appointment is not made within

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134 60 days after a vacancy occurs on the statewide council, the
 135 vacancy may be filled by a majority vote of the statewide
 136 council without further action by the Governor. A person who is
 137 employed by any state agency in client services may not be
 138 appointed to the statewide council.

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

142 (b) The Governor ~~council~~ shall select an executive
 143 director who shall serve at the pleasure of the Governor ~~council~~
 144 and shall perform the duties delegated to him or her by the
 145 council. The compensation of the executive director and staff
 146 shall be established in accordance with the rules of the
 147 Selected Exempt Service.

148 (c) The council may apply for, receive, and accept grants,
 149 gifts, donations, bequests, and other payments including money
 150 or property, real or personal, tangible or intangible, and
 151 service from any governmental or other public or private entity
 152 or person and make arrangements as to the use of same.

153 (d) The statewide council shall annually prepare a budget
 154 request that, ~~is not to be changed by department staff~~ after it
 155 is approved by the council, ~~but~~ shall be submitted to the
 156 Governor ~~for transmittal to the Legislature~~. The budget shall
 157 include a request for funds to carry out the activities of the
 158 statewide council and the local councils.

159 (6) The members of the statewide council shall elect a
 160 chair and a vice chair to terms of 1 year. A person may not

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161 | serve as chair or vice chair for more than two full consecutive
162 | terms.

163 | (7) The responsibilities of the statewide council include,
164 | but are not limited to:

165 | (a) Serving as an independent third-party mechanism for
166 | protecting the constitutional and human rights of clients within
167 | programs or facilities operated, funded, or contracted by any
168 | state agency that provides client services.

169 | (b) Monitoring, by site visit and inspection of records,
170 | the delivery and use of services, programs, or facilities
171 | operated, funded, or contracted by any state agency that
172 | provides client services, for the purpose of preventing abuse or
173 | deprivation of the constitutional and human rights of clients.
174 | The statewide council may conduct an unannounced site visit or
175 | monitoring visit that involves the inspection of records if the
176 | visit is conditioned upon a complaint. A complaint may be
177 | generated by the council itself, after consulting with the
178 | Governor's office, if information from any state agency that
179 | provides client services or from other sources indicates a
180 | situation at the program or facility that indicates possible
181 | abuse or neglect or deprivation of the constitutional and human
182 | rights of clients. The statewide council shall establish and
183 | follow uniform criteria for the review of information and
184 | generation of complaints. Routine program monitoring and reviews
185 | that do not require an examination of records may be made
186 | unannounced.

187 | (c) Receiving, investigating, and resolving reports of
188 | abuse or deprivation of constitutional and human rights referred

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189 to the statewide council by a local council. If a matter
190 constitutes a threat to the life, safety, or health of clients
191 or is multiservice area ~~multidistrict~~ in scope, the statewide
192 council may exercise its ~~such~~ powers without the necessity of a
193 referral from a local council.

194 (d) Reviewing existing programs or services and new or
195 revised programs of the state agencies that provide client
196 services and making recommendations as to how the rights of
197 clients are affected.

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

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

205 (g) Developing and adopting uniform procedures to be used
206 to carry out the purpose and responsibilities of the statewide
207 council and the local councils, ~~which procedures shall include,~~
208 ~~but need not be limited to, the following:~~

209 ~~1. The responsibilities of the statewide council and the~~
210 ~~local councils;~~

211 ~~2. The organization and operation of the statewide council~~
212 ~~and the local councils, including procedures for replacing a~~
213 ~~member, formats for maintaining records of council activities,~~
214 ~~and criteria for determining what constitutes a conflict of~~
215 ~~interest for purposes of assigning and conducting investigations~~
216 ~~and monitoring;~~

217 ~~3. Uniform procedures for the statewide council and the~~
 218 ~~local councils relating to receiving and investigating reports~~
 219 ~~of abuse or deprivation of constitutional or human rights;~~

220 ~~4. The responsibilities and relationship of the local~~
 221 ~~councils to the statewide council;~~

222 ~~5. The relationship of the statewide council to the state~~
 223 ~~agencies that receive and investigate reports of abuse and~~
 224 ~~neglect of clients of state agencies, including the way in which~~
 225 ~~reports of findings and recommendations related to reported~~
 226 ~~abuse or neglect are given to the appropriate state agency that~~
 227 ~~provides client services;~~

228 ~~6. Provision for cooperation with the State Long-Term Care~~
 229 ~~Ombudsman Council;~~

230 ~~7. Procedures for appeal. An appeal to the statewide~~
 231 ~~council is made by a local council when a valid complaint is not~~
 232 ~~resolved at the local level. The statewide council may appeal an~~
 233 ~~unresolved complaint to the secretary or director of the~~
 234 ~~appropriate state agency that provides client services. If,~~
 235 ~~after exhausting all remedies, the statewide council is not~~
 236 ~~satisfied that the complaint can be resolved within the state~~
 237 ~~agency, the appeal may be referred to the Governor;~~

238 ~~8. Uniform procedures for gaining access to and~~
 239 ~~maintaining confidential information; and~~

240 ~~9. Definitions of misfeasance and malfeasance for members~~
 241 ~~of the statewide council and local councils.~~

242 (h) Supervising the operations of the local councils and
 243 monitoring the performance and activities of all local councils

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244 and providing technical assistance to members ~~and staff~~ of local
245 councils.

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

248 (j) Developing and maintaining interagency agreements
249 between the council and the state agencies providing client
250 services. The interagency agreements shall address the
251 coordination of efforts and identify the roles and
252 responsibilities of the statewide and local councils and each
253 agency in fulfillment of their responsibilities, including
254 access to records.

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

257 1. Authority to receive, investigate, ~~seek to~~ conciliate,
258 hold public hearings on, and act on complaints that allege any
259 abuse or deprivation of constitutional or human rights of
260 persons who receive client services from any state agency.

261 2. Access to all client records, files, and reports from
262 any program, service, or facility that is operated, funded, or
263 contracted by any state agency that provides client services and
264 any records that are material to its investigation and are in
265 the custody of any other agency or department of government.
266 The council's investigation or monitoring shall not impede or
267 obstruct matters under investigation by law enforcement agencies
268 or judicial authorities. Access shall not be granted if a
269 specific procedure or prohibition for reviewing records is
270 required by federal law and regulation that supersedes state
271 law. Access shall not be granted to the records of a private

272 licensed practitioner who is providing services outside the
 273 state agency, or outside a state facility, and whose client is
 274 competent and refuses disclosure.

275 3. Standing to petition the circuit court for access to
 276 client records that are confidential as specified by law. The
 277 petition shall state the specific reasons for which the council
 278 is seeking access and the intended use of such information. The
 279 circuit court may authorize council access to the ~~such~~ records
 280 upon a finding that ~~such~~ access is directly related to an
 281 investigation regarding the possible deprivation of
 282 constitutional or human rights or the abuse of a client.
 283 Original client files, agency records, and reports may ~~shall~~ not
 284 be removed from a state agency, but copies shall be provided to
 285 the council and the local councils at the agency's expense.

286 Under no circumstance shall the council have access to
 287 confidential adoption records once the adoption is finalized by
 288 a court in accordance with ss. 39.0132, 63.022, and 63.162.
 289 Upon completion of a general investigation of practices and
 290 procedures of a state agency, the statewide council shall report
 291 its findings to that agency.

292 (b) All information obtained or produced by the statewide
 293 council that is made confidential by law, that relates to the
 294 identity of any client or group of clients subject to the
 295 protections of this section, or that relates to the identity of
 296 an individual who provides information to the council about
 297 abuse or about alleged violations of constitutional or human
 298 rights, is confidential and exempt from s. 119.07(1) and s.
 299 24(a), Art. I of the State Constitution.

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300 (c) Portions of meetings of the statewide council that
 301 relate to the identity of any client or group of clients subject
 302 to the protections of this section, that relate to the identity
 303 of an individual who provides information to the council about
 304 abuse or about alleged violations of constitutional or human
 305 rights, or wherein testimony is provided relating to records
 306 otherwise made confidential by law, are exempt from s. 286.011
 307 and s. 24(b), Art. I of the State Constitution.

308 (d) All records prepared by members of the statewide
 309 council that reflect a mental impression, investigative
 310 strategy, or theory are exempt from s. 119.07(1) and s. 24(a),
 311 Art. I of the State Constitution until the investigation is
 312 completed or until the investigation ceases to be active. For
 313 purposes of this section, an investigation is considered
 314 "active" while the ~~such~~ investigation is being conducted by the
 315 statewide council with a reasonable, good faith belief that it
 316 may lead to a finding of abuse or of a violation of human
 317 rights. An investigation does not cease to be active so long as
 318 the statewide council is proceeding with reasonable dispatch and
 319 there is a good faith belief that action may be initiated by the
 320 council or other administrative or law enforcement agency.

321 (e) Any person who knowingly and willfully discloses any
 322 ~~such~~ confidential information commits a misdemeanor of the
 323 second degree, punishable as provided in s. 775.082 or s.
 324 775.083.

325 Section 3. Section 402.166, Florida Statutes, is amended
 326 to read:

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327 402.166 Florida local advocacy councils; confidential
328 records and meetings.--

329 ~~(1) Each district human rights advocacy committee within~~
330 ~~each service area of the Department of Children and Family~~
331 ~~Services is redesignated as the Florida Local Advocacy Council.~~
332 The local councils are subject to direction from and the
333 supervision of the statewide council. The statewide council
334 ~~Department of Children and Family Services~~ shall assign staff to
335 provide administrative support to the local councils, and staff
336 ~~assigned to these positions shall perform the functions required~~
337 ~~by the local councils without interference from the department.~~
338 ~~The local councils shall direct the activities of staff assigned~~
339 ~~to them to the extent necessary for the local councils to carry~~
340 ~~out their duties.~~ The number and areas of responsibility of the
341 local councils, not to exceed 46 councils statewide, shall be
342 determined by the statewide council and shall be consistent with
343 judicial circuit boundaries. Local councils shall meet at
344 facilities under their jurisdiction whenever possible.

345 (2) Each local council shall have no fewer than 7 members
346 and no more than 15 members, no more than 4 of whom are or have
347 been recipients of one or more client services within the last 4
348 years, except that one member of this group may be an immediate
349 relative or legal representative of a current or former client;
350 two providers who deliver client services as defined in s.
351 402.164(2); and two representatives of professional
352 organizations, one of whom represents the health-related
353 professions and one of whom represents the legal profession.
354 Priority of consideration shall be given to the appointment of

355 | at least one medical or osteopathic physician, as defined in
 356 | chapters 458 and 459, and one member in good standing of The
 357 | Florida Bar. Priority of consideration shall also be given to
 358 | the appointment of an individual who is receiving client
 359 | services and whose primary interest, experience, or expertise
 360 | lies with a major client group not represented on the local
 361 | council at the time of the appointment. A person who is
 362 | employed in client services by any state agency may not be
 363 | appointed to the local council. No more than three individuals
 364 | who are providing contracted services for clients to any state
 365 | agency may serve on the same local council at the same time.
 366 | Persons related to each other by consanguinity or affinity
 367 | within the third degree may not serve on the same local council
 368 | at the same time. All members of local councils must
 369 | successfully complete a standardized training course for local
 370 | council members within 3 months after their appointment to a
 371 | local council. A member may not be assigned to an investigation
 372 | that requires access to confidential information prior to the
 373 | completion of the training course. After he or she completes
 374 | the required training course, a member of a local council may
 375 | not be prevented from participating in any activity of that
 376 | local council, including investigations and monitoring, except
 377 | due to a conflict of interest as described in the procedures
 378 | established by the statewide council under ~~pursuant to~~
 379 | subsection (7).

380 | (3)(a) With respect to existing local councils, each
 381 | member shall serve a term of 4 years. Upon expiration of a term
 382 | and in the case of any other vacancy, the local council shall

383 | appoint a replacement by majority vote of the local council,
 384 | subject to the approval of the Governor. A member may serve no
 385 | more than two full consecutive terms.

386 | (b)1. The Governor shall appoint the first four members of
 387 | any newly created local council; and those four members shall
 388 | select the remaining members, subject to approval of the
 389 | Governor. If any of the first four members are not appointed
 390 | within 60 days after a request is submitted to the Governor,
 391 | those members may be appointed by a majority vote of the
 392 | statewide council without further action by the Governor.

393 | 2. Members shall serve for no more than two full
 394 | consecutive terms of 4 years, except that at the time of initial
 395 | appointment, terms shall be staggered so that approximately one-
 396 | half of the members first appointed shall serve for terms of 4
 397 | years and the remaining members shall serve for terms of 2
 398 | years. Vacancies shall be filled as provided in subparagraph 1.

399 | (c) If no action is taken by the Governor to approve or
 400 | disapprove a replacement of a member under ~~pursuant to~~ this
 401 | subsection within 60 ~~30~~ days after the local council has
 402 | notified the Governor of the appointment, then the appointment
 403 | of the replacement may be considered approved by the Governor
 404 | ~~statewide council~~.

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

409 | (5) If a local council member fails to attend two-thirds
 410 | of the regular local council meetings during the course of a

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411 | year, the local council may replace the member. If a member of
 412 | a local council violates this section or procedures adopted
 413 | under this section, the local council may recommend to the
 414 | Governor that the member be removed.

415 | (6) A member of a local council shall receive no
 416 | compensation but is entitled to be reimbursed for per diem and
 417 | travel expenses as provided in s. 112.061. Members may be
 418 | provided reimbursement for long-distance telephone calls if the
 419 | ~~such~~ calls were necessary to an investigation of an abuse or
 420 | deprivation of constitutional or human rights.

421 | (7) A local council shall first seek to resolve a
 422 | complaint with the appropriate local administration, agency, or
 423 | program; any matter not resolved by the local council shall be
 424 | referred to the statewide council. A local council shall comply
 425 | with appeal procedures established by the statewide council.
 426 | The duties, actions, and procedures of both new and existing
 427 | local councils shall conform to ss. 402.164-402.167. The duties
 428 | of each local council shall include, but are not limited to:

429 | (a) Serving as an independent third-party mechanism for
 430 | protecting the constitutional and human rights of any client
 431 | within a program or facility operated, funded, or contracted by
 432 | a state agency providing client services in the local service
 433 | area.

434 | (b) Monitoring by site visit and inspection of records the
 435 | delivery and use of services, programs, or facilities operated,
 436 | funded, or contracted by a state agency that provides client
 437 | services, for the purpose of preventing abuse or deprivation of
 438 | the constitutional and human rights of clients. A local council

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439 | may conduct an unannounced site visit or monitoring visit that
 440 | involves the inspection of records if the visit is conditioned
 441 | upon a complaint. A complaint may be generated by the council
 442 | itself if information from a state agency that provides client
 443 | services or from other sources indicates a situation at the
 444 | program or facility that indicates possible abuse or neglect or
 445 | deprivation of constitutional and human rights of clients. The
 446 | local council shall follow uniform criteria established by the
 447 | statewide council for the review of information and generation
 448 | of complaints. Routine program monitoring and reviews that do
 449 | not require an examination of records may be made unannounced.

450 | (c) Receiving, investigating, and resolving reports of
 451 | abuse or deprivation of constitutional and human rights by a
 452 | state agency or contracted service provider in the local service
 453 | area.

454 | (d) Reviewing and making recommendations regarding how a
 455 | client's constitutional or human rights might be affected by the
 456 | client's participation in a proposed research project, prior to
 457 | implementation of the project.

458 | ~~(e) Reviewing existing programs and proposed new or~~
 459 | ~~revised programs of client services and making recommendations~~
 460 | ~~as to how these programs and services affect or might affect the~~
 461 | ~~constitutional or human rights of clients.~~

462 | (e)~~(f)~~ Appealing to the statewide council any complaint
 463 | unresolved at the local level. Any matter that constitutes a
 464 | threat to the life, safety, or health of a client or is
 465 | multidistrict in scope shall automatically be referred to the
 466 | statewide council.

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467 ~~(f)~~(g) Submitting an annual report by September 30 to the
468 statewide council concerning activities, recommendations, and
469 complaints reviewed or developed by the local council during the
470 year.

471 (g)~~(h)~~ Conducting meetings at least six times a year at
472 the call of the chair and at other times at the call of the
473 Governor, at the call of the statewide council, or by written
474 request of a majority of the members of the local council.

475 (8)(a) In the performance of its duties, a local council
476 shall have the same authority to access client records, state
477 agency files, reports from any program or service, records of
478 contractors and providers, and records from any facility
479 operated, funded, or under contract with a state agency as
480 specified in s. 402.165(8)(a):

481 ~~1. Access to all client records, files, and reports from~~
482 ~~any program, service, or facility that is operated, funded, or~~
483 ~~contracted by any state agency that provides client services and~~
484 ~~any records that are material to its investigation and are in~~
485 ~~the custody of any other agency or department of government.~~
486 ~~The council's investigation or monitoring shall not impede or~~
487 ~~obstruct matters under investigation by law enforcement agencies~~
488 ~~or judicial authorities. Access shall not be granted if a~~
489 ~~specific procedure or prohibition for reviewing records is~~
490 ~~required by federal law and regulation that supersedes state~~
491 ~~law. Access shall not be granted to the records of a private~~
492 ~~licensed practitioner who is providing services outside state~~
493 ~~agencies and facilities and whose client is competent and~~
494 ~~refuses disclosure.~~

495 ~~2. Standing to petition the circuit court for access to~~
 496 ~~client records that are confidential as specified by law. The~~
 497 ~~petition shall state the specific reasons for which the council~~
 498 ~~is seeking access and the intended use of such information. The~~
 499 ~~court may authorize access to such records upon a finding that~~
 500 ~~such access is directly related to an investigation regarding~~
 501 ~~the possible deprivation of constitutional or human rights or~~
 502 ~~the abuse of a client. Original client files, records, and~~
 503 ~~reports shall not be removed from a state agency. Upon no~~
 504 ~~circumstances shall the council have access to confidential~~
 505 ~~adoption records once the adoption is finalized in court in~~
 506 ~~accordance with ss. 39.0132, 63.022, and 63.162. Upon completion~~
 507 ~~of a general investigation of practices and procedures followed~~
 508 ~~by a state agency in providing client services, the council~~
 509 ~~shall report its findings to the appropriate state agency.~~

510 (b) All information obtained or produced by a local
 511 council that is made confidential by law, that relates to the
 512 identity of any client or group of clients subject to the
 513 protection of this section, or that relates to the identity of
 514 an individual who provides information to the local council
 515 about abuse or about alleged violations of constitutional or
 516 human rights, is confidential and exempt from s. 119.07(1) and
 517 s. 24(a), Art. I of the State Constitution.

518 (c) Portions of meetings of a local council that relate to
 519 the identity of any client or group of clients subject to the
 520 protections of this section, that relate to the identity of an
 521 individual who provides information to the local council about
 522 abuse or about alleged violations of constitutional or human

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523 | rights, or when ~~wherein~~ testimony is provided relating to
 524 | records otherwise made confidential by law, are exempt from s.
 525 | 286.011 and s. 24(b), Art. I of the State Constitution.

526 | (d) All records prepared by members of a local council
 527 | that reflect a mental impression, investigative strategy, or
 528 | theory are exempt from s. 119.07(1) and s. 24(a), Art. I of the
 529 | State Constitution until the investigation is completed or until
 530 | the investigation ceases to be active. For purposes of this
 531 | section, an investigation is considered "active" while the ~~such~~
 532 | investigation is being conducted by a local council with a
 533 | reasonable, good faith belief that it may lead to a finding of
 534 | abuse or of a violation of constitutional or human rights. An
 535 | investigation does not cease to be active so long as the local
 536 | council is proceeding with reasonable dispatch and there is a
 537 | good faith belief that action may be initiated by the local
 538 | council or other administrative or law enforcement agency.

539 | (e) Any person who knowingly and willfully discloses any
 540 | such confidential information commits a misdemeanor of the
 541 | second degree, punishable as provided in s. 775.082 or s.
 542 | 775.083.

543 | Section 4. Section 402.167, Florida Statutes, is amended
 544 | to read:

545 | 402.167 Duties of state agencies that provide client
 546 | services relating to the Florida Statewide Advocacy Council and
 547 | the Florida local advocacy councils.--

548 | ~~(1) Each state agency that provides client services shall~~
 549 | ~~adopt rules that are consistent with law, amended to reflect any~~
 550 | ~~statutory changes, and that address at least the following:~~

551 ~~(a) Procedures by which staff of state agencies refer~~
 552 ~~reports of abuse of clients to the Florida local advocacy~~
 553 ~~councils.~~

554 ~~(b) Procedures by which client information is made~~
 555 ~~available to members of the Florida Statewide Advocacy Council~~
 556 ~~and the Florida local advocacy councils.~~

557 ~~(c) Procedures by which recommendations made by the~~
 558 ~~statewide and local councils will be incorporated into policies~~
 559 ~~and procedures of the state agencies.~~

560 ~~(2) The Department of Children and Family Services shall~~
 561 ~~provide for the location of local councils in area offices and~~
 562 ~~shall provide necessary equipment and office supplies,~~
 563 ~~including, but not limited to, clerical and word processing~~
 564 ~~services, photocopiers, telephone services, and stationery and~~
 565 ~~other necessary supplies, and shall establish the procedures by~~
 566 ~~which council members are reimbursed for authorized~~
 567 ~~expenditures.~~

568 ~~(3) The secretaries or directors of the state agencies~~
 569 ~~shall ensure the full cooperation and assistance of employees of~~
 570 ~~their respective state agencies with members and staff of the~~
 571 ~~statewide and local councils. The secretary or director of each~~
 572 ~~state agency providing client services shall notify its~~
 573 ~~contract, service, and treatment providers of the powers,~~
 574 ~~duties, and responsibilities of the statewide and local~~
 575 ~~councils. Further, the Secretary of Children and Family Services~~
 576 ~~shall ensure that, to the extent possible, staff assigned to the~~
 577 ~~statewide council and local councils are free of interference~~

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578 ~~from or control by the department in performing their duties~~
579 ~~relative to those councils.~~

580 Section 5. The local councils, 6 full-time equivalent
581 staff positions, and the council's toll-free complaint line are
582 transferred by a type two transfer, under s. 20.06, Florida
583 Statutes, from the Department of Children and Family Services to
584 the Florida Statewide Advocacy Council. The Department of
585 Children and Family Services is directed to identify 6 full-time
586 equivalent General Revenue funded positions.

587 Section 6. This act shall take effect October 1, 2004.