

CHAMBER ACTION

1 The Committee on State Administration recommends the following:

2  
3 **Committee Substitute**

4 Remove the entire bill and insert:

5  
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 candidates for the statewide  
16 council; requiring the Governor to select an executive  
17 director; providing that such director shall serve at the  
18 pleasure of the Governor; removing a restriction on the  
19 preparation of the annual budget; requiring the council to  
20 consult with the Governor before generating a complaint;  
21 revising council duties and responsibilities; directing  
22 the council to establish interagency agreements with  
23 certain state agencies; requiring copies of certain files,

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

45  
 46 Be It Enacted by the Legislature of the State of Florida:

47  
 48 Section 1. Subsection (2) of section 402.164, Florida  
 49 Statutes, is amended to read:

50 402.164 Legislative intent; definitions.--

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

52            (a) "Access" means a visual inspection or the copying of  
 53 the records maintained by the state agency, facility, provider,  
 54 or contractor.

55            (b)(a) "Client" means a client as defined in s. 393.063,  
 56 s. 394.67, s. 397.311, or s. 400.960, a forensic client or  
 57 client as defined in s. 916.106, a child or youth as defined in  
 58 s. 39.01, a child as defined in s. 827.01, a family as defined  
 59 in s. 414.0252, a participant as defined in s. 400.551, a  
 60 resident as defined in s. 400.402, a Medicaid recipient or  
 61 recipient as defined in s. 409.901, a child receiving childcare  
 62 as defined in s. 402.302, a disabled adult as defined in s.  
 63 410.032 or s. 410.603, or a victim as defined in s. 39.01 or s.  
 64 415.102 as each definition applies within its respective  
 65 chapter.

66            (c)(b) "Client services" means health and human services  
 67 that ~~which~~ are provided to a client by a state agency or a  
 68 service provider operated, funded, or contracted by the state.

69            (d) "Council" or "statewide council" means the Florida  
 70 Statewide Advocacy Council.

71            (e) "Local council" or "local advocacy council" means a  
 72 local advocacy council located in this state under the  
 73 supervision of the Florida Statewide Advocacy Council.

74            Section 2. Section 402.165, Florida Statutes, is amended  
 75 to read:

76            402.165 Florida Statewide Advocacy Council; confidential  
 77 records and meetings.--

78            ~~(1) The Statewide Human Rights Advocacy Committee within~~  
 79 ~~the Department of Children and Family Services is redesignated~~

80 ~~as~~ The Florida Statewide Advocacy Council shall be located in  
 81 the Executive Office of the Governor but may be assigned by the  
 82 Governor for administrative support purposes to any Governor's  
 83 agency. Members of the council shall represent the interests of  
 84 clients who are served by state agencies that provide client  
 85 services. ~~The Department of Children and Family Services shall~~  
 86 ~~provide administrative support and service to the statewide~~  
 87 ~~council to the extent requested by the executive director within~~  
 88 ~~available resources.~~ The statewide council is not subject to  
 89 control, supervision, or direction by any state agency providing  
 90 client services ~~the Department of Children and Family Services~~  
 91 in the performance of its duties. The council shall consist of  
 92 not fewer than 15 and not more than 20 residents of this state,  
 93 one from each service area designated by the statewide council,  
 94 who broadly represent the interests of the public and the  
 95 clients of the state agencies that provide client services. The  
 96 members shall be representative of ~~four~~ groups of state  
 97 residents as follows: a ~~one~~ provider who delivers client  
 98 services ~~as defined in s. 402.164(2);~~ a ~~two~~ nonsalaried  
 99 representative ~~representatives~~ of nonprofit agencies or civic  
 100 groups; a representative ~~four representatives~~ of consumer groups  
 101 who is ~~are~~ currently receiving, or has ~~have~~ received, one or  
 102 more client services within the past 4 years, ~~at least one of~~  
 103 ~~whom must be a consumer of one or more client services;~~ and two  
 104 residents of the state who do not represent any of the foregoing  
 105 groups but may represent a, ~~one of whom represents the health-~~  
 106 related profession or ~~professions~~ and ~~one of whom represents the~~  
 107 legal profession. In appointing the representative of a ~~the~~

108 health-related profession ~~professions~~, the appointing authority  
 109 shall give priority of consideration to a physician licensed  
 110 under chapter 458 or chapter 459; and, in appointing the  
 111 representative of the legal profession, the appointing authority  
 112 shall give priority of consideration to a member in good  
 113 standing of The Florida Bar. Of the remaining members, no more  
 114 than one shall be an elected official; ~~no more than one shall be~~  
 115 ~~a health professional; no more than one shall be a legal~~  
 116 ~~professional; no more than one shall be a provider; no more than~~  
 117 ~~two shall be nonsalaried representatives of nonprofit agencies~~  
 118 ~~or civic groups; and no more than one shall be an individual~~  
 119 ~~whose primary area of interest, experience, or expertise is a~~  
 120 ~~major client group of a client services group that is not~~  
 121 ~~represented on the council at the time of appointment. Except~~  
 122 for the member who is an elected public official, each candidate  
 123 for member ~~of~~ the statewide council must be given priority  
 124 consideration if he or she has ~~have~~ served as a member of a  
 125 ~~Florida advocacy council, with priority consideration given to~~  
 126 ~~an applicant who has served a full term on a local council.~~  
 127 Persons related to each other by consanguinity or affinity  
 128 within the third degree may not serve on the statewide council  
 129 at the same time.

130 (2) Members of the statewide council shall be appointed to  
 131 serve terms of 4 years. A member may not serve more than two  
 132 full consecutive terms.

133 (3) If a member of the statewide council fails to attend  
 134 two-thirds of the regular council meetings during the course of  
 135 a year, the position held by the member may be deemed vacant by

136 the council. The Governor shall fill the vacancy according  
 137 ~~pursuant~~ to subsection (4). If a member of the statewide council  
 138 violates this section or procedures adopted under this section,  
 139 the council may recommend to the Governor that the member be  
 140 removed.

141 (4) The Governor may ~~shall~~ fill a ~~each~~ vacancy on the  
 142 statewide council from a list of nominees submitted by the  
 143 statewide council or appoint any qualified person. A list of  
 144 candidates may be submitted to the statewide council by the  
 145 local council in the service area from which the vacancy occurs.  
 146 Priority of consideration shall be given to the appointment of  
 147 an individual who is receiving one or more client services and  
 148 whose primary interest, experience, or expertise lies with a  
 149 major client group that is not represented on the council at the  
 150 time of the appointment. If an appointment is not made within  
 151 60 days after a vacancy occurs on the statewide council, the  
 152 vacancy may be filled by a majority vote of the statewide  
 153 council without further action by the Governor. A person who is  
 154 employed by any state agency in client services may not be  
 155 appointed to the statewide council.

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

159 (b) The Governor ~~council~~ shall select an executive  
 160 director who shall serve at the pleasure of the Governor ~~council~~  
 161 and shall perform the duties delegated to him or her by the  
 162 council. The compensation of the executive director and staff

163 shall be established in accordance with the rules of the  
164 Selected Exempt Service.

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

170 (d) The statewide council shall annually prepare a budget  
171 request that, ~~is not to be changed by department staff~~ after it  
172 is approved by the council, ~~but~~ shall be submitted to the  
173 Governor ~~for transmittal to the Legislature~~. The budget shall  
174 include a request for funds to carry out the activities of the  
175 statewide council and the local councils.

176 (6) The members of the statewide council shall elect a  
177 chair and a vice chair to terms of 1 year. A person may not  
178 serve as chair or vice chair for more than two full consecutive  
179 terms.

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

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

186 (b) Monitoring, by site visit and through access to  
187 ~~inspection of records,~~ the delivery and use of services,  
188 programs, or facilities operated, funded, or contracted by any  
189 state agency that provides client services, for the purpose of  
190 preventing abuse or deprivation of the constitutional and human

191 rights of clients. The statewide council may conduct an  
 192 unannounced site visit or monitoring visit that involves the  
 193 inspection of records if the visit is conditioned upon a  
 194 complaint. A complaint may be generated by the council itself,  
 195 after consulting with the Governor's office, if information from  
 196 any state agency that provides client services or from other  
 197 sources indicates a situation at the program or facility that  
 198 indicates possible abuse or neglect or deprivation of the  
 199 constitutional and human rights of clients. The statewide  
 200 council shall establish and follow uniform criteria for the  
 201 review of information and generation of complaints. Routine  
 202 program monitoring and reviews that do not require an  
 203 examination of records may be made unannounced.

204 (c) Receiving, investigating, and resolving reports of  
 205 abuse or deprivation of constitutional and human rights referred  
 206 to the statewide council by a local council. If a matter  
 207 constitutes a threat to the life, safety, or health of clients  
 208 or is multiservice area ~~multidistrict~~ in scope, the statewide  
 209 council may exercise its ~~such~~ powers without the necessity of a  
 210 referral from a local council.

211 (d) Reviewing existing programs or services and new or  
 212 revised programs of the state agencies that provide client  
 213 services and making recommendations as to how the rights of  
 214 clients are affected.

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



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

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

226 ~~1. The responsibilities of the statewide council and the~~  
227 ~~local councils;~~

228 ~~2. The organization and operation of the statewide council~~  
229 ~~and the local councils, including procedures for replacing a~~  
230 ~~member, formats for maintaining records of council activities,~~  
231 ~~and criteria for determining what constitutes a conflict of~~  
232 ~~interest for purposes of assigning and conducting investigations~~  
233 ~~and monitoring;~~

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

237 ~~4. The responsibilities and relationship of the local~~  
238 ~~councils to the statewide council;~~

239 ~~5. The relationship of the statewide council to the state~~  
240 ~~agencies that receive and investigate reports of abuse and~~  
241 ~~neglect of clients of state agencies, including the way in which~~  
242 ~~reports of findings and recommendations related to reported~~  
243 ~~abuse or neglect are given to the appropriate state agency that~~  
244 ~~provides client services;~~

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

247 ~~7. Procedures for appeal. An appeal to the statewide~~  
 248 ~~council is made by a local council when a valid complaint is not~~  
 249 ~~resolved at the local level. The statewide council may appeal an~~  
 250 ~~unresolved complaint to the secretary or director of the~~  
 251 ~~appropriate state agency that provides client services. If,~~  
 252 ~~after exhausting all remedies, the statewide council is not~~  
 253 ~~satisfied that the complaint can be resolved within the state~~  
 254 ~~agency, the appeal may be referred to the Governor;~~

255 ~~8. Uniform procedures for gaining access to and~~  
 256 ~~maintaining confidential information; and~~

257 ~~9. Definitions of misfeasance and malfeasance for members~~  
 258 ~~of the statewide council and local councils.~~

259 (h) Supervising the operations of the local councils and  
 260 monitoring the performance and activities of all local councils  
 261 and providing technical assistance to members ~~and staff~~ of local  
 262 councils.

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

265 (j) Developing and maintaining interagency agreements  
 266 between the council and the state agencies providing client  
 267 services. The interagency agreements shall address the  
 268 coordination of efforts and identify the roles and  
 269 responsibilities of the statewide and local councils and each  
 270 agency in fulfillment of their responsibilities, including  
 271 access to records.

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

274 1. Authority to receive, investigate, seek to conciliate,  
275 hold hearings on, and act on complaints that allege any abuse or  
276 deprivation of constitutional or human rights of persons who  
277 receive client services from any state agency.

278 2. Access to all client records, files, and reports from  
279 any program, service, or facility that is operated, funded, or  
280 contracted by any state agency that provides client services and  
281 any records that are material to its investigation and are in  
282 the custody of any other agency or department of government.  
283 The council's investigation or monitoring shall not impede or  
284 obstruct matters under investigation by law enforcement agencies  
285 or judicial authorities. Access shall not be granted if a  
286 specific procedure or prohibition for reviewing records is  
287 required by federal law and regulation that supersedes state  
288 law. Access shall not be granted to the records of a private  
289 licensed practitioner who is providing services outside the  
290 state agency, or outside a state facility, and whose client is  
291 competent and refuses disclosure.

292 3. Standing to petition the circuit court for access to  
293 client records that are confidential as specified by law. The  
294 petition shall state the specific reasons for which the council  
295 is seeking access and the intended use of such information. The  
296 circuit court may authorize council access to the ~~such~~ records  
297 upon a finding that ~~such~~ access is directly related to an  
298 investigation regarding the possible deprivation of  
299 constitutional or human rights or the abuse of a client.  
300 Original client files, agency records, and reports may ~~shall~~ not  
301 be removed from a state agency, but copies shall be provided to

302 | the council and the local councils at the agency's expense.

303 | Under no circumstance shall the council have access to  
304 | confidential adoption records once the adoption is finalized by  
305 | a court in accordance with ss. 39.0132, 63.022, and 63.162.

306 | Upon completion of a general investigation of practices and  
307 | procedures of a state agency, the statewide council shall report  
308 | its findings to that agency.

309 |       (b) All information obtained or produced by the statewide  
310 | council that is made confidential by law, that relates to the  
311 | identity of any client or group of clients subject to the  
312 | protections of this section, or that relates to the identity of  
313 | an individual who provides information to the council about  
314 | abuse or about alleged violations of constitutional or human  
315 | rights, is confidential and exempt from s. 119.07(1) and s.  
316 | 24(a), Art. I of the State Constitution.

317 |       (c) Portions of meetings of the statewide council that  
318 | relate to the identity of any client or group of clients subject  
319 | to the protections of this section, that relate to the identity  
320 | of an individual who provides information to the council about  
321 | abuse or about alleged violations of constitutional or human  
322 | rights, or wherein testimony is provided relating to records  
323 | otherwise made confidential by law, are exempt from s. 286.011  
324 | and s. 24(b), Art. I of the State Constitution.

325 |       (d) All records prepared by members of the statewide  
326 | council that reflect a mental impression, investigative  
327 | strategy, or theory are exempt from s. 119.07(1) and s. 24(a),  
328 | Art. I of the State Constitution until the investigation is  
329 | completed or until the investigation ceases to be active. For

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330 purposes of this section, an investigation is considered  
 331 "active" while the ~~such~~ investigation is being conducted by the  
 332 statewide council with a reasonable, good faith belief that it  
 333 may lead to a finding of abuse or of a violation of human  
 334 rights. An investigation does not cease to be active so long as  
 335 the statewide council is proceeding with reasonable dispatch and  
 336 there is a good faith belief that action may be initiated by the  
 337 council or other administrative or law enforcement agency.

338 (e) Any person who knowingly and willfully discloses any  
 339 ~~such~~ confidential information commits a misdemeanor of the  
 340 second degree, punishable as provided in s. 775.082 or s.  
 341 775.083.

342 Section 3. Section 402.166, Florida Statutes, is amended  
 343 to read:

344 402.166 Florida local advocacy councils; confidential  
 345 records and meetings.--

346 (1) ~~Each district human rights advocacy committee within~~  
 347 ~~each service area of the Department of Children and Family~~  
 348 ~~Services is redesignated as the Florida Local Advocacy Council.~~  
 349 The local councils are subject to direction from and the  
 350 supervision of the statewide council. The statewide council  
 351 ~~Department of Children and Family Services~~ shall assign staff to  
 352 provide administrative support to the local councils, ~~and staff~~  
 353 ~~assigned to these positions shall perform the functions required~~  
 354 ~~by the local councils without interference from the department.~~  
 355 ~~The local councils shall direct the activities of staff assigned~~  
 356 ~~to them to the extent necessary for the local councils to carry~~  
 357 ~~out their duties.~~ The number and areas of responsibility of the

358 | local councils, not to exceed 46 councils statewide, shall be  
 359 | determined by the statewide council and shall be consistent with  
 360 | judicial circuit boundaries. Local councils shall meet at  
 361 | facilities under their jurisdiction whenever possible.

362 |         (2) Each local council shall have no fewer than 7 members  
 363 | and no more than 15 members, no more than 4 of whom are or have  
 364 | been recipients of one or more client services within the last 4  
 365 | years, except that one member of this group may be an immediate  
 366 | relative or legal representative of a current or former client;  
 367 | two providers who deliver client services as defined in s.  
 368 | 402.164(2); and two representatives of professional  
 369 | organizations, one of whom represents the health-related  
 370 | professions and one of whom represents the legal profession.  
 371 | Priority of consideration shall be given to the appointment of  
 372 | at least one medical or osteopathic physician, as defined in  
 373 | chapters 458 and 459, and one member in good standing of The  
 374 | Florida Bar. Priority of consideration shall also be given to  
 375 | the appointment of an individual who is receiving client  
 376 | services and whose primary interest, experience, or expertise  
 377 | lies with a major client group not represented on the local  
 378 | council at the time of the appointment. A person who is  
 379 | employed in client services by any state agency may not be  
 380 | appointed to the local council. No more than three individuals  
 381 | who are providing contracted services for clients to any state  
 382 | agency may serve on the same local council at the same time.  
 383 | Persons related to each other by consanguinity or affinity  
 384 | within the third degree may not serve on the same local council  
 385 | at the same time. All members of local councils must

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386 | successfully complete a standardized training course for local  
387 | council members within 3 months after their appointment to a  
388 | local council. A member may not be assigned to an investigation  
389 | that requires access to confidential information prior to the  
390 | completion of the training course. After he or she completes  
391 | the required training course, a member of a local council may  
392 | not be prevented from participating in any activity of that  
393 | local council, including investigations and monitoring, except  
394 | due to a conflict of interest as described in the procedures  
395 | established by the statewide council under ~~pursuant to~~  
396 | subsection (7).

397 |       (3)(a) With respect to existing local councils, each  
398 | member shall serve a term of 4 years. Upon expiration of a term  
399 | and in the case of any other vacancy, the local council shall  
400 | appoint a replacement by majority vote of the local council,  
401 | subject to the approval of the Governor. A member may serve no  
402 | more than two full consecutive terms.

403 |       (b)1. The Governor shall appoint the first four members of  
404 | any newly created local council; and those four members shall  
405 | select the remaining members, subject to approval of the  
406 | Governor. If any of the first four members are not appointed  
407 | within 60 days after a request is submitted to the Governor,  
408 | those members may be appointed by a majority vote of the  
409 | statewide council without further action by the Governor.

410 |       2. Members shall serve for no more than two full  
411 | consecutive terms of 4 years, except that at the time of initial  
412 | appointment, terms shall be staggered so that approximately one-  
413 | half of the members first appointed shall serve for terms of 4

414 | years and the remaining members shall serve for terms of 2  
415 | years. Vacancies shall be filled as provided in subparagraph 1.

416 |       (c) If no action is taken by the Governor to approve or  
417 | disapprove a replacement of a member under ~~pursuant to~~ this  
418 | subsection within 60 ~~30~~ days after the local council has  
419 | notified the Governor of the appointment, then the appointment  
420 | of the replacement may be considered approved by the Governor  
421 | ~~statewide council~~.

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

426 |       (5) If a local council member fails to attend two-thirds  
427 | of the regular local council meetings during the course of a  
428 | year, the local council may replace the member. If a member of  
429 | a local council violates this section or procedures adopted  
430 | under this section, the local council may recommend to the  
431 | Governor that the member be removed.

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

438 |       (7) A local council shall first seek to resolve a  
439 | complaint with the appropriate local administration, agency, or  
440 | program; any matter not resolved by the local council shall be  
441 | referred to the statewide council. A local council shall comply



442 with appeal procedures established by the statewide council.  
 443 The duties, actions, and procedures of both new and existing  
 444 local councils shall conform to ss. 402.164-402.167. The duties  
 445 of each local council shall include, but are not limited to:

446 (a) Serving as an independent third-party mechanism for  
 447 protecting the constitutional and human rights of any client  
 448 within a program or facility operated, funded, or contracted by  
 449 a state agency providing client services in the local service  
 450 area.

451 (b) Monitoring by site visit and access to ~~inspection of~~  
 452 records the delivery and use of services, programs, or  
 453 facilities operated, funded, or contracted by a state agency  
 454 that provides client services, for the purpose of preventing  
 455 abuse or deprivation of the constitutional and human rights of  
 456 clients. A local council may conduct an unannounced site visit  
 457 or monitoring visit that involves access to ~~the inspection of~~  
 458 records if the visit is conditioned upon a complaint. A  
 459 complaint may be generated by the council itself if information  
 460 from a state agency that provides client services or from other  
 461 sources indicates a situation at the program or facility that  
 462 indicates possible abuse or neglect or deprivation of  
 463 constitutional and human rights of clients. The local council  
 464 shall follow uniform criteria established by the statewide  
 465 council for the review of information and generation of  
 466 complaints. Routine program monitoring and reviews that do not  
 467 require an examination of records may be made unannounced.

468 (c) Receiving, investigating, and resolving reports of  
 469 abuse or deprivation of constitutional and human rights by a

470 state agency or contracted service provider in the local service  
471 area.

472 (d) Reviewing and making recommendations regarding how a  
473 client's constitutional or human rights might be affected by the  
474 client's participation in a proposed research project, prior to  
475 implementation of the project.

476 ~~(e) Reviewing existing programs and proposed new or~~  
477 ~~revised programs of client services and making recommendations~~  
478 ~~as to how these programs and services affect or might affect the~~  
479 ~~constitutional or human rights of clients.~~

480 ~~(e)(f)~~ (f) Appealing to the statewide council any complaint  
481 unresolved at the local level. Any matter that constitutes a  
482 threat to the life, safety, or health of a client or is  
483 multiservice area ~~multidistrict~~ in scope shall automatically be  
484 referred to the statewide council.

485 ~~(f)(g)~~ (g) Submitting an annual report by September 30 to the  
486 statewide council concerning activities, recommendations, and  
487 complaints reviewed or developed by the local council during the  
488 year.

489 ~~(g)(h)~~ (h) Conducting meetings at least six times a year at  
490 the call of the chair and at other times at the call of the  
491 Governor, at the call of the statewide council, or by written  
492 request of a majority of the members of the local council.

493 (8)(a) In the performance of its duties, a local council  
494 shall have the same authority to access client records, state  
495 agency files, reports from any program or service, records of  
496 contractors and providers, and records from any facility

497 operated, funded, or under contract with a state agency as  
 498 specified in s. 402.165(8)(a)÷

499 ~~1. Access to all client records, files, and reports from~~  
 500 ~~any program, service, or facility that is operated, funded, or~~  
 501 ~~contracted by any state agency that provides client services and~~  
 502 ~~any records that are material to its investigation and are in~~  
 503 ~~the custody of any other agency or department of government.~~  
 504 ~~The council's investigation or monitoring shall not impede or~~  
 505 ~~obstruct matters under investigation by law enforcement agencies~~  
 506 ~~or judicial authorities. Access shall not be granted if a~~  
 507 ~~specific procedure or prohibition for reviewing records is~~  
 508 ~~required by federal law and regulation that supersedes state~~  
 509 ~~law. Access shall not be granted to the records of a private~~  
 510 ~~licensed practitioner who is providing services outside state~~  
 511 ~~agencies and facilities and whose client is competent and~~  
 512 ~~refuses disclosure.~~

513 ~~2. Standing to petition the circuit court for access to~~  
 514 ~~client records that are confidential as specified by law. The~~  
 515 ~~petition shall state the specific reasons for which the council~~  
 516 ~~is seeking access and the intended use of such information. The~~  
 517 ~~court may authorize access to such records upon a finding that~~  
 518 ~~such access is directly related to an investigation regarding~~  
 519 ~~the possible deprivation of constitutional or human rights or~~  
 520 ~~the abuse of a client. Original client files, records, and~~  
 521 ~~reports shall not be removed from a state agency. Upon no~~  
 522 ~~circumstances shall the council have access to confidential~~  
 523 ~~adoption records once the adoption is finalized in court in~~  
 524 ~~accordance with ss. 39.0132, 63.022, and 63.162. Upon completion~~

525 ~~of a general investigation of practices and procedures followed~~  
 526 ~~by a state agency in providing client services, the council~~  
 527 ~~shall report its findings to the appropriate state agency.~~

528 (b) All information obtained or produced by a local  
 529 council that is made confidential by law, that relates to the  
 530 identity of any client or group of clients subject to the  
 531 protection of this section, or that relates to the identity of  
 532 an individual who provides information to the local council  
 533 about abuse or about alleged violations of constitutional or  
 534 human rights, is confidential and exempt from s. 119.07(1) and  
 535 s. 24(a), Art. I of the State Constitution.

536 (c) Portions of meetings of a local council that relate to  
 537 the identity of any client or group of clients subject to the  
 538 protections of this section, that relate to the identity of an  
 539 individual who provides information to the local council about  
 540 abuse or about alleged violations of constitutional or human  
 541 rights, or when ~~wherein~~ testimony is provided relating to  
 542 records otherwise made confidential by law, are exempt from s.  
 543 286.011 and s. 24(b), Art. I of the State Constitution.

544 (d) All records prepared by members of a local council  
 545 that reflect a mental impression, investigative strategy, or  
 546 theory are exempt from s. 119.07(1) and s. 24(a), Art. I of the  
 547 State Constitution until the investigation is completed or until  
 548 the investigation ceases to be active. For purposes of this  
 549 section, an investigation is considered "active" while the ~~such~~  
 550 investigation is being conducted by a local council with a  
 551 reasonable, good faith belief that it may lead to a finding of  
 552 abuse or of a violation of constitutional or human rights. An

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553 investigation does not cease to be active so long as the local  
554 council is proceeding with reasonable dispatch and there is a  
555 good faith belief that action may be initiated by the local  
556 council or other administrative or law enforcement agency.

557 (e) Any person who knowingly and willfully discloses any  
558 such confidential information commits a misdemeanor of the  
559 second degree, punishable as provided in s. 775.082 or s.  
560 775.083.

561 Section 4. Section 402.167, Florida Statutes, is amended  
562 to read:

563 402.167 Duties of state agencies that provide client  
564 services relating to the Florida Statewide Advocacy Council and  
565 the Florida local advocacy councils.--

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

569 ~~(a) Procedures by which staff of state agencies refer~~  
570 ~~reports of abuse of clients to the Florida local advocacy~~  
571 ~~councils.~~

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

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

578 ~~(2) The Department of Children and Family Services shall~~  
579 ~~provide for the location of local councils in area offices and~~  
580 ~~shall provide necessary equipment and office supplies,~~

581 ~~including, but not limited to, clerical and word processing~~  
 582 ~~services, photocopiers, telephone services, and stationery and~~  
 583 ~~other necessary supplies, and shall establish the procedures by~~  
 584 ~~which council members are reimbursed for authorized~~  
 585 ~~expenditures.~~

586 ~~(3) The secretaries or directors of the state agencies~~  
 587 ~~shall ensure the full cooperation and assistance of employees of~~  
 588 ~~their respective state agencies with members and staff of the~~  
 589 ~~statewide and local councils. The secretary or director of each~~  
 590 ~~state agency providing client services shall notify its~~  
 591 ~~contract, service, and treatment providers of the powers,~~  
 592 ~~duties, and responsibilities of the statewide and local~~  
 593 ~~councils. Further, the Secretary of Children and Family Services~~  
 594 ~~shall ensure that, to the extent possible, staff assigned to the~~  
 595 ~~statewide council and local councils are free of interference~~  
 596 ~~from or control by the department in performing their duties~~  
 597 ~~relative to those councils.~~

598 Section 5. The Florida Statewide Advocacy Council, its  
 599 three full-time equivalent positions and associated expense  
 600 funding, the local councils, and the toll-free complaint line  
 601 are hereby transferred by a type two transfer, pursuant to s.  
 602 20.06(2), Florida Statutes, from the Department of Children and  
 603 Family Services to the Florida Statewide Advocacy Council. The  
 604 Department of Children and Family Services is directed to  
 605 identify 10 additional full-time equivalent positions funded  
 606 from the General Revenue Fund, which positions are hereby  
 607 transferred by a type two transfer, pursuant to s. 20.06(2),

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608 | Florida Statutes, to the Florida Statewide Advocacy Council for  
609 | support of the local councils.

610 |       Section 6. This act shall take effect January 1, 2005.