

By the Committee on Children and Families; and Senators Wise, Dockery, Saunders, Fasano and Bennett

300-2421-04

1 A bill to be entitled
 2 An act relating to the statewide and local
 3 advocacy councils; amending s. 402.164, F.S.;
 4 providing additional definitions; amending s.
 5 402.165, F.S.; requiring the Florida Statewide
 6 Advocacy Council to be located in the Executive
 7 Office of the Governor; revising the membership
 8 of the statewide advocacy council; requiring
 9 the Governor to select an executive director;
 10 directing the statewide advocacy council to
 11 establish interagency agreements with certain
 12 state agencies; amending s. 402.166, F.S.,
 13 relating to local advocacy councils; providing
 14 that the local council has the same authority
 15 to access records from facilities, programs,
 16 and clients as does the statewide advocacy
 17 council; amending s. 402.167, F.S.; directing
 18 each state agency to provide information about
 19 the statewide and local advocacy councils;
 20 transferring the local advocacy councils by a
 21 type-two transfer from the Department of
 22 Children and Family Services to the Florida
 23 Statewide Advocacy Council; directing the
 24 department to identify positions; providing an
 25 effective date.

26
 27 Be It Enacted by the Legislature of the State of Florida:

28
 29 Section 1. Subsection (2) of section 402.164, Florida
 30 Statutes, is amended to read:

31 402.164 Legislative intent; definitions.--

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

2 (a) "Client" means a client as defined in s. 393.063,
3 s. 394.67, s. 397.311, or s. 400.960, a forensic client or
4 client as defined in s. 916.106, a child or youth as defined
5 in s. 39.01, a child as defined in s. 827.01, a family as
6 defined in s. 414.0252, a participant as defined in s.
7 400.551, a resident as defined in s. 400.402, a Medicaid
8 recipient or recipient as defined in s. 409.901, a child
9 receiving childcare as defined in s. 402.302, a disabled adult
10 as defined in s. 410.032 or s. 410.603, or a victim as defined
11 in s. 39.01 or s. 415.102 as each definition applies within
12 its respective chapter.

13 (b) "Client services" means services which are
14 provided to a client by a state agency or a service provider
15 operated, funded, or contracted by the state.

16 (c) "Council" or "statewide council" means the Florida
17 Statewide Advocacy Council.

18 (d) "Local council" or "local advocacy council" means
19 one of the local advocacy councils located in this state,
20 under the supervision of the Florida Statewide Advocacy
21 Council.

22 Section 2. Section 402.165, Florida Statutes, is
23 amended to read:

24 402.165 Florida Statewide Advocacy Council;
25 confidential records and meetings.--

26 (1) ~~The Statewide Human Rights Advocacy Committee~~
27 ~~within the Department of Children and Family Services is~~
28 ~~redesignated as~~ The Florida Statewide Advocacy Council shall
29 be located in the Executive Office of the Governor, but may be
30 assigned by the Governor for administrative support purposes
31 to any Governor's agency. Members of the council shall

1 represent the interests of clients who are served by state
2 agencies that provide client services. ~~The Department of~~
3 ~~Children and Family Services shall provide administrative~~
4 ~~support and service to the statewide council to the extent~~
5 ~~requested by the executive director within available~~
6 ~~resources.~~ The statewide council is not subject to control,
7 supervision, or direction by any state agency providing client
8 services ~~the Department of Children and Family Services~~ in the
9 performance of its duties. The council shall consist of not
10 less than 15 and not more than 20 residents of this state, one
11 from each service area designated by the statewide council,
12 who broadly represent the interests of the public and the
13 clients of the state agencies that provide client services.
14 The members shall be representative of ~~four~~ groups of state
15 residents as follows: a one provider who delivers client
16 services ~~as defined in s. 402.164(2); a two~~ nonsalaried
17 representative representatives of nonprofit agencies or civic
18 groups; a representative four ~~representatives~~ of consumer
19 groups who is are currently receiving, or has have received,
20 one or more client services within the past 4 years, ~~at least~~
21 ~~one of whom must be a consumer of one or more client services;~~
22 and two residents of the state who do not represent any of the
23 foregoing groups, but may represent a one of whom represents
24 ~~the health-related profession or professions and one of whom~~
25 ~~represents~~ the legal profession. In appointing the
26 representative of the health-related professions, the
27 appointing authority shall give priority of consideration to a
28 physician licensed under chapter 458 or chapter 459; and, in
29 appointing the representative of the legal profession, the
30 appointing authority shall give priority of consideration to a
31 member in good standing of The Florida Bar. Of the remaining

1 members, no more than one shall be an elected official; ~~no~~
2 ~~more than one shall be a health professional; no more than one~~
3 ~~shall be a legal professional; no more than one shall be a~~
4 ~~provider; no more than two shall be nonsalaried~~
5 ~~representatives of nonprofit agencies or civic groups; and no~~
6 ~~more than one shall be an individual whose primary area of~~
7 ~~interest, experience, or expertise is a major client group of~~
8 ~~a client services group that is not represented on the council~~
9 ~~at the time of appointment.~~ Except for the member who is an
10 elected public official, each member of the statewide council
11 must be given priority consideration if he or she has ~~have~~
12 ~~served as a member of a local Florida advocacy council, with~~
13 ~~priority consideration given to an applicant who has served a~~
14 ~~full term on a local council.~~ Persons related to each other
15 by consanguinity or affinity within the third degree may not
16 serve on the statewide council at the same time.

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

20 (3) If a member of the statewide council fails to
21 attend two-thirds of the regular council meetings during the
22 course of a year, the position held by the member may be
23 deemed vacant by the council. The Governor shall fill the
24 vacancy in accordance with ~~pursuant to~~ subsection (4). If a
25 member of the statewide council violates this section or
26 procedures adopted under this section, the council may
27 recommend to the Governor that the member be removed.

28 (4) The Governor may ~~shall~~ fill a ~~each~~ vacancy on the
29 statewide council from a list of nominees submitted by the
30 statewide council or appoint any qualified person. A list of
31 candidates may be submitted to the statewide council by the

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

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

16 (b) The Governor ~~council~~ shall select an executive
17 director who shall serve at the pleasure of the Governor
18 ~~council~~ and shall perform the duties delegated to him or her
19 by the council. The compensation of the executive director
20 and staff shall be established in accordance with the rules of
21 the Selected Exempt Service.

22 (c) The council may apply for, receive, and accept
23 grants, gifts, donations, bequests, and other payments
24 including money or property, real or personal, tangible or
25 intangible, and service from any governmental or other public
26 or private entity or person and make arrangements as to the
27 use of same.

28 (d) The statewide council shall annually prepare a
29 budget request that ~~is not to be changed by department staff~~
30 after it is approved by the council, ~~but~~ shall be submitted to
31 the Governor ~~for transmittal to the Legislature~~. The budget

1 shall include a request for funds to carry out the activities
2 of the statewide council and the local councils.

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

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

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

13 (b) Monitoring, by site visit and inspection of
14 records, the delivery and use of services, programs, or
15 facilities operated, funded, or contracted by any state agency
16 that provides client services, for the purpose of preventing
17 abuse or deprivation of the constitutional and human rights of
18 clients. The statewide council may conduct an unannounced
19 site visit or monitoring visit that involves the inspection of
20 records if the visit is conditioned upon a complaint. A
21 complaint may be generated by the council itself, after
22 consulting with the Governor's office, if information from any
23 state agency that provides client services or from other
24 sources indicates a situation at the program or facility that
25 indicates possible abuse or neglect or deprivation of the
26 constitutional and human rights of clients. The statewide
27 council shall establish and follow uniform criteria for the
28 review of information and generation of complaints. Routine
29 program monitoring and reviews that do not require an
30 examination of records may be made unannounced.

31

1 (c) Receiving, investigating, and resolving reports of
2 abuse or deprivation of constitutional and human rights
3 referred to the statewide council by a local council. If a
4 matter constitutes a threat to the life, safety, or health of
5 clients or is multiservice-area ~~multidistrict~~ in scope, the
6 statewide council may exercise its ~~such~~ powers without the
7 necessity of a referral from a local council.

8 (d) Reviewing existing programs or services and new or
9 revised programs of the state agencies that provide client
10 services and making recommendations as to how the rights of
11 clients are affected.

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

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

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

23 1. ~~The responsibilities of the statewide council and~~
24 ~~the local councils;~~

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

31

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

5 ~~4. The responsibilities and relationship of the local~~
6 ~~councils to the statewide council;~~

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

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

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

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

25 ~~9. Definitions of misfeasance and malfeasance for~~
26 ~~members of the statewide council and local councils.~~

27 (h) Supervising the operations of the local councils
28 and monitoring the performance and activities of all local
29 councils and providing technical assistance to members and
30 staff of local councils.

31

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

3 (j) Developing and maintaining interagency agreements
4 between the council and the state agencies providing client
5 services. The interagency agreements must address the
6 coordination of efforts and identify the roles and
7 responsibilities of the statewide and local councils and each
8 agency in the fulfillment of their responsibilities, including
9 access to records.

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

12 1. Authority to receive, investigate, ~~seek to~~
13 conciliate, hold public hearings on, and act on complaints
14 that allege any abuse or deprivation of constitutional or
15 human rights of persons who receive client services from any
16 state agency.

17 2. Access to all client records, files, and reports
18 from any program, service, or facility that is operated,
19 funded, or contracted by any state agency that provides client
20 services and any records that are material to its
21 investigation and are in the custody of any other agency or
22 department of government. The council's investigation or
23 monitoring shall not impede or obstruct matters under
24 investigation by law enforcement agencies or judicial
25 authorities. Access shall not be granted if a specific
26 procedure or prohibition for reviewing records is required by
27 federal law and regulation that supersedes state law. Access
28 shall not be granted to the records of a private licensed
29 practitioner who is providing services outside the state
30 agency, or outside a state facility, and whose client is
31 competent and refuses disclosure.

1 3. Standing to petition the circuit court for access
2 to client records that are confidential as specified by law.
3 The petition shall state the specific reasons for which the
4 council is seeking access and the intended use of such
5 information. The circuit court may authorize council access
6 to the ~~such~~ records upon a finding that ~~such~~ access is
7 directly related to an investigation regarding the possible
8 deprivation of constitutional or human rights or the abuse of
9 a client. Original client files, agency records, and reports
10 may shall not be removed from a state agency, but copies must
11 be provided to the council and the local councils at the
12 agency's expense. Under no circumstance shall the council
13 have access to confidential adoption records once the adoption
14 is finalized by a court in accordance with ss. 39.0132,
15 63.022, and 63.162. Upon completion of a general
16 investigation of practices and procedures of a state agency,
17 the statewide council shall report its findings to that
18 agency.

19 (b) All information obtained or produced by the
20 statewide council that is made confidential by law, that
21 relates to the identity of any client or group of clients
22 subject to the protections of this section, or that relates to
23 the identity of an individual who provides information to the
24 council about abuse or about alleged violations of
25 constitutional or human rights, is confidential and exempt
26 from s. 119.07(1) and s. 24(a), Art. I of the State
27 Constitution.

28 (c) Portions of meetings of the statewide council that
29 relate to the identity of any client or group of clients
30 subject to the protections of this section, that relate to the
31 identity of an individual who provides information to the

1 council about abuse or about alleged violations of
2 constitutional or human rights, or wherein testimony is
3 provided relating to records otherwise made confidential by
4 law, are exempt from s. 286.011 and s. 24(b), Art. I of the
5 State Constitution.

6 (d) All records prepared by members of the statewide
7 council that reflect a mental impression, investigative
8 strategy, or theory are exempt from s. 119.07(1) and s. 24(a),
9 Art. I of the State Constitution until the investigation is
10 completed or until the investigation ceases to be active. For
11 purposes of this section, an investigation is considered
12 "active" while the ~~such~~ investigation is being conducted by
13 the statewide council with a reasonable, good faith belief
14 that it may lead to a finding of abuse or of a violation of
15 human rights. An investigation does not cease to be active so
16 long as the statewide council is proceeding with reasonable
17 dispatch and there is a good faith belief that action may be
18 initiated by the council or other administrative or law
19 enforcement agency.

20 (e) Any person who knowingly and willfully discloses
21 any such confidential information commits a misdemeanor of the
22 second degree, punishable as provided in s. 775.082 or s.
23 775.083.

24 Section 3. Section 402.166, Florida Statutes, is
25 amended to read:

26 402.166 Florida local advocacy councils; confidential
27 records and meetings.--

28 (1) ~~Each district human rights advocacy committee~~
29 ~~within each service area of the Department of Children and~~
30 ~~Family Services is redesignated as the Florida Local Advocacy~~
31 ~~Council.~~The local councils are subject to direction from and

1 the supervision of the statewide council. The statewide
2 council ~~Department of Children and Family Services~~ shall
3 assign staff to provide ~~administrative~~ support to the local
4 councils, ~~and staff assigned to these positions shall perform~~
5 ~~the functions required by the local councils without~~
6 ~~interference from the department. The local councils shall~~
7 ~~direct the activities of staff assigned to them to the extent~~
8 ~~necessary for the local councils to carry out their duties.~~
9 The number and areas of responsibility of the local councils,
10 not to exceed 46 councils statewide, shall be determined by
11 the statewide council and shall be consistent with judicial
12 circuit boundaries. Local councils shall meet at facilities
13 under their jurisdiction whenever possible.

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

1 may not be appointed to the local council. No more than three
2 individuals who are providing contracted services for clients
3 to any state agency may serve on the same local council at the
4 same time. Persons related to each other by consanguinity or
5 affinity within the third degree may not serve on the same
6 local council at the same time. All members of local councils
7 must successfully complete a standardized training course for
8 council members within 3 months after their appointment to a
9 local council. A member may not be assigned to an
10 investigation that requires access to confidential information
11 prior to the completion of the training course. After he or
12 she completes the required training course, a member of a
13 local council may not be prevented from participating in any
14 activity of that local council, including investigations and
15 monitoring, except due to a conflict of interest as described
16 in the procedures established by the statewide council under
17 ~~pursuant to~~ subsection (7).

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

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

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

8 (c) If no action is taken by the Governor to approve
9 or disapprove a replacement of a member under ~~pursuant to~~ this
10 subsection within 60 ~~30~~ days after the local council has
11 notified the Governor of the appointment, then the appointment
12 of the replacement may be considered approved by the Governor
13 ~~statewide council~~.

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

18 (5) If a local council member fails to attend
19 two-thirds of the regular local council meetings during the
20 course of a year, the local council may replace the member.
21 If a member of a local council violates this section or
22 procedures adopted under this section, the local council may
23 recommend to the Governor that the member be removed.

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

30 (7) A local council shall first seek to resolve a
31 complaint with the appropriate local administration, agency,

1 or program; any matter not resolved by the local council shall
2 be referred to the statewide council. A local council shall
3 comply with appeal procedures established by the statewide
4 council. The duties, actions, and procedures of both new and
5 existing local councils shall conform to ss. 402.164-402.167.
6 The duties of each local council shall include, but are not
7 limited to:

8 (a) Serving as an independent third-party mechanism
9 for protecting the constitutional and human rights of any
10 client within a program or facility operated, funded, or
11 contracted by a state agency providing client services in the
12 local services area.

13 (b) Monitoring by site visit and inspection of records
14 the delivery and use of services, programs, or facilities
15 operated, funded, or contracted by a state agency that
16 provides client services, for the purpose of preventing abuse
17 or deprivation of the constitutional and human rights of
18 clients. A local council may conduct an unannounced site
19 visit or monitoring visit that involves the inspection of
20 records if the visit is conditioned upon a complaint. A
21 complaint may be generated by the council itself if
22 information from a state agency that provides client services
23 or from other sources indicates a situation at the program or
24 facility that indicates possible abuse or neglect or
25 deprivation of constitutional and human rights of clients.
26 The local council shall follow uniform criteria established by
27 the statewide council for the review of information and
28 generation of complaints. Routine program monitoring and
29 reviews that do not require an examination of records may be
30 made unannounced.

31

1 (c) Receiving, investigating, and resolving reports of
2 abuse or deprivation of constitutional and human rights by a
3 state agency or contracted service provider in the local
4 service area.

5 (d) Reviewing and making recommendations regarding how
6 a 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 local council.

26 (8)(a) In the performance of its duties, a local
27 council shall have the same authority to access client
28 records, state agency files, reports from any program or
29 service, records of contractors and providers, and records
30 from any facility operated, funded, or under contract with a
31 state agency as specified in s. 402.165(8)(a).+

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

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

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

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

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

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

5 Section 4. Section 402.167, Florida Statutes, is
6 amended to read:

7 402.167 Duties of state agencies that provide client
8 services relating to the Florida Statewide Advocacy Council
9 and the Florida local advocacy councils.--

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

14 ~~(a) Procedures by which staff of state agencies refer~~
15 ~~reports of abuse of clients to the Florida local advocacy~~
16 ~~councils.~~

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

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

23 ~~(2) The Department of Children and Family Services~~
24 ~~shall provide for the location of local councils in area~~
25 ~~offices and shall provide necessary equipment and office~~
26 ~~supplies, including, but not limited to, clerical and word~~
27 ~~processing services, photocopiers, telephone services, and~~
28 ~~stationery and other necessary supplies, and shall establish~~
29 ~~the procedures by which council members are reimbursed for~~
30 ~~authorized expenditures.~~

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1 ~~(1)(3)~~ The secretaries or directors of the state
2 agencies shall ensure the full cooperation and assistance of
3 employees of their respective state agencies with members and
4 staff of the statewide and local councils. The secretary or
5 director of each state agency providing client services shall
6 notify its contract, service, and treatment providers of the
7 powers, duties, and responsibilities of the statewide and
8 local councils. ~~Further, the Secretary of Children and Family~~
9 ~~Services shall ensure that, to the extent possible, staff~~
10 ~~assigned to the statewide council and local councils are free~~
11 ~~of interference from or control by the department in~~
12 ~~performing their duties relative to those councils.~~

13 Section 5. The local councils, six full-time
14 equivalent staff positions, and the council's toll-free
15 complaint line are transferred by a type two transfer, under
16 section 20.06, Florida Statutes, from the Department of
17 Children and Family Services to the Florida Statewide Advocacy
18 Council. The department is hereby directed to identify six
19 full-time equivalent general-revenue-funded positions.

20 Section 6. This act shall take effect October 1, 2004.
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 2674
4 Removes language reflecting Legislative intent that the
5 Florida Statewide Advocacy Council (SAC) and its local
6 councils perform a governmental oversight role and that
7 advocacy councils are to have routine access to protected
8 health information.
9 Specifies that the Statewide Advocacy Council will be located
10 in the Executive Office of the Governor but may be housed in
11 one of the Governor's agencies.
12 Directs the Governor to select an Executive Director for the
13 Statewide Advocacy Council rather than allowing the council to
14 make the selection.
15 Removes language providing the SAC with the authority to issue
16 declaratory statements or seek injunctive relief from
17 providers denying access to certain records.
18 Restores language prohibiting the SAC and LACs access to
19 certain types of records, including adoption records.
20 Deletes language authorizing the courts to impose a \$15,000
21 civil fine for the withholding of certain records.
22 Restores language prohibiting persons who are related to one
23 another from serving on the same council at the same time.
24 Requires the transfer of 6 rather than 15 Full Time Equivalent
25 (FTE) positions from the Department of Children and Family
26 Services.
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