

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 definitions; amending s. 402.165,  
5           F.S.; requiring the Florida Statewide Advocacy  
6           Council to be located in the Executive Office  
7           of the Governor; removing the requirement for  
8           the Department of Children and Family Services  
9           to provide administrative support; revising the  
10          membership of the statewide advocacy council;  
11          providing priority consideration for certain  
12          candidates for the statewide council; requiring  
13          the Governor to select an executive director;  
14          providing that such director shall serve at the  
15          pleasure of the Governor; removing a  
16          restriction on the preparation of the annual  
17          budget; requiring the council to consult with  
18          the Governor before generating a complaint;  
19          revising council duties and responsibilities;  
20          directing the council to establish interagency  
21          agreements with certain state agencies;  
22          requiring copies of certain files, records, and  
23          reports to be provided to the council at the  
24          agency's expense; amending s. 402.166, F.S.;  
25          deleting references to administration by the  
26          department; providing clarification for duties  
27          performed by a local council; revising the  
28          period in which the Governor may approve or  
29          disapprove an appointment; removing authority  
30          to review certain programs; providing that the  
31          local council has the same authority to access

1 records from facilities, programs, and clients  
2 as does the statewide advocacy council;  
3 amending s. 402.167, F.S.; directing each state  
4 agency that provides client services to provide  
5 certain information about the statewide  
6 advocacy and local councils; transferring the  
7 Florida Statewide Advocacy Council, certain  
8 positions, local councils, and a toll-free  
9 complaint line by a type two transfer from the  
10 Department of Children and Family Services to  
11 the Florida Statewide Advocacy Council;  
12 directing the department to identify positions  
13 to be transferred by a type two transfer to the  
14 Florida Statewide Advocacy Council for support  
15 of the local councils; providing an effective  
16 date.

17

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

19

20 Section 1. Subsection (2) of section 402.164, Florida  
21 Statutes, is amended to read:

22 402.164 Legislative intent; definitions.--

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

24 (a) "Access" means a visual inspection or the copying  
25 of the records maintained by the state agency, facility,  
26 provider, or contractor.27 (b)(a) "Client" means a client as defined in s.  
28 393.063, s. 394.67, s. 397.311, or s. 400.960, a forensic  
29 client or client as defined in s. 916.106, a child or youth as  
30 defined in s. 39.01, a child as defined in s. 827.01, a family  
31 as defined in s. 414.0252, a participant as defined in s.

1 400.551, a resident as defined in s. 400.402, a Medicaid  
 2 recipient or recipient as defined in s. 409.901, a child  
 3 receiving childcare as defined in s. 402.302, a disabled adult  
 4 as defined in s. 410.032 or s. 410.603, or a victim as defined  
 5 in s. 39.01 or s. 415.102 as each definition applies within  
 6 its respective chapter.

7 ~~(c)(b)~~ "Client services" means services which are  
 8 provided to a client by a state agency or a service provider  
 9 operated, funded, or contracted by the state.

10 (d) "Council" or "statewide council" means the Florida  
 11 Statewide Advocacy Council.

12 (e) "Local council" or "local advocacy council" means  
 13 one of the local advocacy councils located in this state,  
 14 under the supervision of the Florida Statewide Advocacy  
 15 Council.

16 Section 2. Section 402.165, Florida Statutes, is  
 17 amended to read:

18 402.165 Florida Statewide Advocacy Council;  
 19 confidential records and meetings.--

20 ~~(1) The Statewide Human Rights Advocacy Committee~~  
 21 ~~within the Department of Children and Family Services is~~  
 22 ~~redesignated as~~ The Florida Statewide Advocacy Council shall  
 23 be located in the Executive Office of the Governor, but may be  
 24 assigned by the Governor for administrative support purposes  
 25 to any Governor's agency. Members of the council shall  
 26 represent the interests of clients who are served by state  
 27 agencies that provide client services. ~~The Department of~~  
 28 ~~Children and Family Services shall provide administrative~~  
 29 ~~support and service to the statewide council to the extent~~  
 30 ~~requested by the executive director within available~~  
 31 ~~resources.~~ The statewide council is not subject to control,

1 supervision, or direction by any state agency providing client  
2 services ~~the Department of Children and Family Services~~ in the  
3 performance of its duties. The council shall consist of not  
4 less than 15 and not more than 20 residents of this state, one  
5 from each service area designated by the statewide council,  
6 who broadly represent the interests of the public and the  
7 clients of the state agencies that provide client services.  
8 The members shall be representative of ~~four~~ groups of state  
9 residents as follows: a one provider who delivers client  
10 services ~~as defined in s. 402.164(2); a two~~ nonsalaried  
11 representative ~~representatives~~ of nonprofit agencies or civic  
12 groups; a representative ~~four representatives~~ of consumer  
13 groups who is ~~are~~ currently receiving, or has ~~have~~ received,  
14 one or more client services within the past 4 years, ~~at least~~  
15 ~~one of whom must be a consumer of one or more client services;~~  
16 and two residents of the state who do not represent any of the  
17 foregoing groups, but may represent a one of whom represents  
18 ~~the~~ health-related profession or professions ~~and one of whom~~  
19 ~~represents~~ the legal profession. In appointing the  
20 representative of the health-related professions, the  
21 appointing authority shall give priority of consideration to a  
22 physician licensed under chapter 458 or chapter 459; and, in  
23 appointing the representative of the legal profession, the  
24 appointing authority shall give priority of consideration to a  
25 member in good standing of The Florida Bar. Of the remaining  
26 members, no more than one shall be an elected official; ~~no~~  
27 ~~more than one shall be a health professional; no more than one~~  
28 ~~shall be a legal professional; no more than one shall be a~~  
29 ~~provider; no more than two shall be nonsalaried~~  
30 ~~representatives of nonprofit agencies or civic groups; and no~~  
31 ~~more than one shall be an individual whose primary area of~~

1 ~~interest, experience, or expertise is a major client group of~~  
2 ~~a client services group that is not represented on the council~~  
3 ~~at the time of appointment.~~ Except for the member who is an  
4 elected public official, each member of the statewide council  
5 must be given priority consideration if he or she has ~~have~~  
6 served as a member of a local ~~Florida advocacy~~ council, ~~with~~  
7 ~~priority consideration given to an applicant who has served a~~  
8 ~~full term on a local council.~~ Persons related to each other  
9 by consanguinity or affinity within the third degree may not  
10 serve on the statewide council at the same time.

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

14 (3) If a member of the statewide council fails to  
15 attend two-thirds of the regular council meetings during the  
16 course of a year, the position held by the member may be  
17 deemed vacant by the council. The Governor shall fill the  
18 vacancy according ~~pursuant~~ to subsection (4). If a member of  
19 the statewide council violates this section or procedures  
20 adopted under this section, the council may recommend to the  
21 Governor that the member be removed.

22 (4) The Governor may ~~shall~~ fill a ~~each~~ vacancy on the  
23 statewide council from a list of nominees submitted by the  
24 statewide council or appoint any qualified person. A list of  
25 candidates may be submitted to the statewide council by the  
26 local council in the service area from which the vacancy  
27 occurs. Priority of consideration shall be given to the  
28 appointment of an individual who is receiving one or more  
29 client services and whose primary interest, experience, or  
30 expertise lies with a major client group that is not  
31 represented on the council at the time of the appointment. If

1 an appointment is not made within 60 days after a vacancy  
2 occurs on the statewide council, the vacancy may be filled by  
3 a majority vote of the statewide council without further  
4 action by the Governor. A person who is employed by any state  
5 agency in client services may not be appointed to the  
6 statewide council.

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

10 (b) The Governor ~~council~~ shall select an executive  
11 director who shall serve at the pleasure of the Governor  
12 ~~council~~ and shall perform the duties delegated to him or her  
13 by the council. The compensation of the executive director  
14 and staff shall be established in accordance with the rules of  
15 the Selected Exempt Service.

16 (c) The council may apply for, receive, and accept  
17 grants, gifts, donations, bequests, and other payments  
18 including money or property, real or personal, tangible or  
19 intangible, and service from any governmental or other public  
20 or private entity or person and make arrangements as to the  
21 use of same.

22 (d) The statewide council shall annually prepare a  
23 budget request that, ~~is not to be changed by department staff~~  
24 after it is approved by the council, ~~but~~ shall be submitted to  
25 the Governor ~~for transmittal to the Legislature~~. The budget  
26 shall include a request for funds to carry out the activities  
27 of the statewide council and the local councils.

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

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

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

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

25           (c) Receiving, investigating, and resolving reports of  
26 abuse or deprivation of constitutional and human rights  
27 referred to the statewide council by a local council. If a  
28 matter constitutes a threat to the life, safety, or health of  
29 clients or is multiservice-area ~~multidistrict~~ in scope, the  
30 statewide council may exercise its ~~such~~ powers without the  
31 necessity of a referral from a local council.

1 (d) Reviewing existing programs or services and new or  
2 revised programs of the state agencies that provide client  
3 services and making recommendations as to how the rights of  
4 clients are affected.

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

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

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

16 1. ~~The responsibilities of the statewide council and~~  
17 ~~the local councils;~~

18 2. ~~The organization and operation of the statewide~~  
19 ~~council and the local councils, including procedures for~~  
20 ~~replacing a member, formats for maintaining records of council~~  
21 ~~activities, and criteria for determining what constitutes a~~  
22 ~~conflict of interest for purposes of assigning and conducting~~  
23 ~~investigations and monitoring;~~

24 3. ~~Uniform procedures for the statewide council and~~  
25 ~~the local councils relating to receiving and investigating~~  
26 ~~reports of abuse or deprivation of constitutional or human~~  
27 ~~rights;~~

28 4. ~~The responsibilities and relationship of the local~~  
29 ~~councils to the statewide council;~~

30 5. ~~The relationship of the statewide council to the~~  
31 ~~state agencies that receive and investigate reports of abuse~~



1 ~~and neglect of clients of state agencies, including the way in~~  
2 ~~which reports of findings and recommendations related to~~  
3 ~~reported abuse or neglect are given to the appropriate state~~  
4 ~~agency that provides client services;~~

5 ~~6. Provision for cooperation with the State Long Term~~  
6 ~~Care Ombudsman Council;~~

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

15 ~~8. Uniform procedures for gaining access to and~~  
16 ~~maintaining confidential information; and~~

17 ~~9. Definitions of misfeasance and malfeasance for~~  
18 ~~members of the statewide council and local councils.~~

19 (h) Supervising the operations of the local councils  
20 and monitoring the performance and activities of all local  
21 councils and providing technical assistance to members ~~and~~  
22 ~~staff~~ of local councils.

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

25 (j) Developing and maintaining interagency agreements  
26 between the council and the state agencies providing client  
27 services. The interagency agreements shall address the  
28 coordination of efforts and identify the roles and  
29 responsibilities of the statewide and local councils and each  
30 agency in fulfillment of their responsibilities, including  
31 access to records.

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

3           1. Authority to receive, investigate, seek to  
4 conciliate, hold hearings on, and act on complaints that  
5 allege any abuse or deprivation of constitutional or human  
6 rights of persons who receive client services from any state  
7 agency.

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

23           3. Standing to petition the circuit court for access  
24 to client records that are confidential as specified by law.  
25 The petition shall state the specific reasons for which the  
26 council is seeking access and the intended use of such  
27 information. The circuit court may authorize council access  
28 to the ~~such~~ records upon a finding that ~~such~~ access is  
29 directly related to an investigation regarding the possible  
30 deprivation of constitutional or human rights or the abuse of  
31 a client. Original client files, agency records, and reports

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

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

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

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

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

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

15 Section 3. Section 402.166, Florida Statutes, is  
 16 amended to read:

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

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

1 not to exceed 46 councils statewide, shall be determined by  
2 the statewide council and shall be consistent with judicial  
3 circuit boundaries. Local councils shall meet at facilities  
4 under their jurisdiction whenever possible.

5 (2) Each local council shall have no fewer than 7  
6 members and no more than 15 members, no more than 4 of whom  
7 are or have been recipients of one or more client services  
8 within the last 4 years, except that one member of this group  
9 may be an immediate relative or legal representative of a  
10 current or former client; two providers who deliver client  
11 services as defined in s. 402.164(2); and two representatives  
12 of professional organizations, one of whom represents the  
13 health-related professions and one of whom represents the  
14 legal profession. Priority of consideration shall be given to  
15 the appointment of at least one medical or osteopathic  
16 physician, as defined in chapters 458 and 459, and one member  
17 in good standing of The Florida Bar. Priority of consideration  
18 shall also be given to the appointment of an individual who is  
19 receiving client services and whose primary interest,  
20 experience, or expertise lies with a major client group not  
21 represented on the local council at the time of the  
22 appointment. A person who is employed in client services by  
23 any state agency may not be appointed to the local council. No  
24 more than three individuals who are providing contracted  
25 services for clients to any state agency may serve on the same  
26 local council at the same time. Persons related to each other  
27 by consanguinity or affinity within the third degree may not  
28 serve on the same local council at the same time. All members  
29 of local councils must successfully complete a standardized  
30 training course for council members within 3 months after  
31 their appointment to a local council. A member may not be

1 assigned to an investigation that requires access to  
2 confidential information prior to the completion of the  
3 training course. After he or she completes the required  
4 training course, a member of a local council may not be  
5 prevented from participating in any activity of that local  
6 council, including investigations and monitoring, except due  
7 to a conflict of interest as described in the procedures  
8 established by the statewide council under ~~pursuant to~~  
9 subsection (7).

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

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

24 2. Members shall serve for no more than two full  
25 consecutive terms of 4 years, except that at the time of  
26 initial appointment, terms shall be staggered so that  
27 approximately one-half of the members first appointed shall  
28 serve for terms of 4 years and the remaining members shall  
29 serve for terms of 2 years. Vacancies shall be filled as  
30 provided in subparagraph 1.

31

1 (c) If no action is taken by the Governor to approve  
2 or disapprove a replacement of a member under ~~pursuant to~~ this  
3 subsection within 60 ~~30~~ days after the local council has  
4 notified the Governor of the appointment, then the appointment  
5 of the replacement may be considered approved by the Governor  
6 ~~statewide council~~.

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

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

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

23 (7) A local council shall first seek to resolve a  
24 complaint with the appropriate local administration, agency,  
25 or program; any matter not resolved by the local council shall  
26 be referred to the statewide council. A local council shall  
27 comply with appeal procedures established by the statewide  
28 council. The duties, actions, and procedures of both new and  
29 existing local councils shall conform to ss. 402.164-402.167.  
30 The duties of each local council shall include, but are not  
31 limited to:

1           (a) Serving as an independent third-party mechanism  
2 for protecting the constitutional and human rights of any  
3 client within a program or facility operated, funded, or  
4 contracted by a state agency providing client services in the  
5 local services area.

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

24           (c) Receiving, investigating, and resolving reports of  
25 abuse or deprivation of constitutional and human rights by a  
26 state agency or contracted service provider in the local  
27 service area.

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



1           ~~(e) Reviewing existing programs and proposed new or~~  
 2 ~~revised programs of client services and making recommendations~~  
 3 ~~as to how these programs and services affect or might affect~~  
 4 ~~the constitutional or human rights of clients.~~

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

10           ~~(f)(g)~~ Submitting an annual report by September 30 to  
 11 the statewide council concerning activities, recommendations,  
 12 and complaints reviewed or developed by the local council  
 13 during the year.

14           ~~(g)(h)~~ Conducting meetings at least six times a year  
 15 at the call of the chair and at other times at the call of the  
 16 Governor, at the call of the statewide council, or by written  
 17 request of a majority of the members of the local council.

18           (8)(a) In the performance of its duties, a local  
 19 council shall have the same authority to access client  
 20 records, state agency files, reports from any program or  
 21 service, records of contractors and providers, and records  
 22 from any facility operated, funded, or under contract with a  
 23 state agency as specified in s. 402.165(8)(a):

24           1. ~~Access to all client records, files, and reports~~  
 25 ~~from any program, service, or facility that is operated,~~  
 26 ~~funded, or contracted by any state agency that provides client~~  
 27 ~~services and any records that are material to its~~  
 28 ~~investigation and are in the custody of any other agency or~~  
 29 ~~department of government. The council's investigation or~~  
 30 ~~monitoring shall not impede or obstruct matters under~~  
 31 ~~investigation by law enforcement agencies or judicial~~

1 ~~authorities. Access shall not be granted if a specific~~  
2 ~~procedure or prohibition for reviewing records is required by~~  
3 ~~federal law and regulation that supersedes state law. Access~~  
4 ~~shall not be granted to the records of a private licensed~~  
5 ~~practitioner who is providing services outside state agencies~~  
6 ~~and facilities and whose client is competent and refuses~~  
7 ~~disclosure.~~

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

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

1 (c) Portions of meetings of a local council that  
2 relate to the identity of any client or group of clients  
3 subject to the protections of this section, that relate to the  
4 identity of an individual who provides information to the  
5 local council about abuse or about alleged violations of  
6 constitutional or human rights, or when ~~wherein~~ testimony is  
7 provided relating to records otherwise made confidential by  
8 law, are exempt from s. 286.011 and s. 24(b), Art. I of the  
9 State Constitution.

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

24 (e) Any person who knowingly and willfully discloses  
25 any such confidential information commits a misdemeanor of the  
26 second degree, punishable as provided in s. 775.082 or s.  
27 775.083.

28 Section 4. Section 402.167, Florida Statutes, is  
29 amended to read:  
30  
31

1           402.167 Duties of state agencies that provide client  
2 services relating to the Florida Statewide Advocacy Council  
3 and the Florida local advocacy councils.--

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

8           ~~(a) Procedures by which staff of state agencies refer~~  
9 ~~reports of abuse of clients to the Florida local advocacy~~  
10 ~~councils.~~

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

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

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

25           (3) The secretaries or directors of the state agencies  
26 shall ensure the full cooperation and assistance of employees  
27 of their respective state agencies with members and staff of  
28 the statewide and local councils. The secretary or director of  
29 each state agency providing client services shall notify its  
30 contract, service, and treatment providers of the powers,  
31 duties, and responsibilities of the statewide and local

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

6       Section 5. The Florida Statewide Advocacy Council, its  
7 three full-time equivalent positions and associated expense  
8 funding, the local councils, and the toll-free complaint line  
9 are hereby transferred by a type two transfer, pursuant to  
10 section 20.06(2), Florida Statutes, from the Department of  
11 Children and Family Services to the Florida Statewide Advocacy  
12 Council. The Department of Children and Family Services is  
13 directed to identify 10 additional full-time equivalent  
14 positions funded from the General Revenue Fund, which  
15 positions are hereby transferred by a type two transfer,  
16 pursuant to section 20.06(2), Florida Statutes, to the Florida  
17 Statewide Advocacy Council for support of the local councils.

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