

STORAGE NAME: h4709z.flc

DATE: May 11, 1998

****FINAL ACTION****

****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
Family Law and Children
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 4709 (PCB FLC 98-04)

RELATING TO: Statewide Human Rights Advocacy Committees

SPONSOR(S): Committee on Family Law and Children

COMPANION BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) Family Law and Children YEAS 9 NAYS 0
- (2)
- (3)
- (4)
- (5)

I. FINAL ACTION STATUS:

This bill failed to pass the Legislature.

II. SUMMARY:

Transfers the Statewide Human Rights Advocacy Committee and the district human rights advocacy committees from the Department of Children and Family Services to the Department of Legal Affairs by a type two transfer. Provides legislative intent that by the transfer, the performance of the Statewide Human Rights Advocacy Committee and the district human rights advocacy committees will be captured by the performance measures of the Department of Legal Affairs. Requires the Department of Children and Family Services to continue to provide administrative support, housing, and services to the committees through interagency agreement with the Department of Legal Affairs. Provides an effective date of July 1 of the year in which enacted.

III. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

The Statewide Human Rights Advocacy Committee is responsible for serving as an independent third-party mechanism to protect the constitutional and human rights of any client within a program or facility operated, funded, licensed, or regulated by the Department of Children and Family Services. This is accomplished by monitoring, through site visits and inspection of records, the delivery and use of services, programs, or facilities operated, funded, regulated, or licensed by the Department of Children and Family Services. Further, the statewide committee receives, investigates, and resolves reports of abuse or deprivation of constitutional and human rights that have been referred by the district committees. The statewide committee also reviews existing programs or services and new or revised programs of the department and makes recommendations as to how the rights of clients are affected relative to these programs or services. Although the department is responsible for providing administrative support to the committee, the committee is not subject to control, supervision, or direction by the department in the performance of its duties.

The Statewide and district HRAC's are composed of volunteers, appointed by the Governor. HRAC members that make up the 34 committees, through the 15 districts of the Department of Children and Family Services, reported 36,408 hours of volunteer time in 1997 in the performance of their duties.

The Statewide and district human rights advocacy committees were created in 1975 by the Legislature to provide oversight over programs or facilities operated, funded, licensed, or operated by the Department of Health and Rehabilitative Services. The committees have no authority to direct state agencies, but rather to influence them into providing better services to the consumers they serve and to prevent problems from recurring.

Pursuant to F.S. 20.19(1), the mission of the Department of Children and Family Services is to work in partnership with local communities to help people be self-sufficient and live in stable families and communities. The purposes of the department are to deliver, or provide for the delivery of, all family services offered by the state through the department to its citizens. The Department of Children and Family Services is divided into 15 service districts, which house the local human rights advocacy committee offices.

The Department of Legal Affairs is created by F.S. 20.11. The Attorney General is the chief state legal officer, and a member of the cabinet pursuant to Article IV, section 4 of the Florida Constitution. The Office of Civil Rights is created within the Department of Legal Affairs pursuant to F.S. 16.57, and is charged with investigating and initiating violations of constitutional rights, or rights secured by the laws of this state. The Department of Legal Affairs has identified a strategic goal to enhance the coordination between local, state, and federal agencies charged with responsibilities related to unlawful discrimination, civil rights violations, whistle-blower protection, and bias-related or hate crimes. The Department of Legal Affairs has 9 local offices, located in Tallahassee, Daytona Beach, Fort Lauderdale, Fort Myers, Jacksonville, Miami, West Palm Beach, Orlando, and Tampa.

B. EFFECT OF PROPOSED CHANGES:

This bill realigns the Statewide Human Rights Advocacy Committee and district human rights committees within the Department of Legal Affairs, which department is charged with enforcing civil rights protections. The bill transfers the Statewide and district HRAC's to the Department of Legal Affairs by a type two transfer, as defined in F.S. 20.06(2). The transfer is intended to capture the performance of SHRAC within the performance measures of the Department of Legal Affairs.

As the district committees are currently housed in each Department of Children and Family Services district office, and consist of volunteers who live in those districts, the bill requires the committees to remain housed within DCF district office by interagency agreement with the Department of Legal Affairs.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

The transfer of the Statewide and district human rights advocacy committees to the Department of Legal Affairs includes the requirement that the Department of Legal Affairs adopt specified rules.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The Department of Legal Affairs will be responsible for the Statewide and district human rights advocacy committees. The Department of Children and Family Services will continue to provide office space and administrative support to the committees through interagency agreement with the Department of Legal Affairs.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

- (2) what is the cost of such responsibility at the new level/agency?

N/A

- (3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

N/A

- b. Does the bill require or authorize an increase in any fees?

N/A

- c. Does the bill reduce total taxes, both rates and revenues?

N/A

- d. Does the bill reduce total fees, both rates and revenues?

N/A

- e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

This bill amends F.S. sections 402.165, 402.166, and 402.167.

E. SECTION-BY-SECTION RESEARCH:

Section 1. Transfers the Statewide Human Rights Advocacy Committee and the district human advocacy committee from the Department of Children and Family Services to the Department of Legal Affairs by a type two transfer. Allows the administrative rules of any agency which are in effect immediately before the transfer to remain in effect until specifically changed in the manner provided by law.

Section 2. Provides legislative intent that by the transfer, the performance of the Statewide Human Rights Advocacy Committee will be captured by the performance measures of the Department of Legal Affairs.

Section 3. Amends F.S. 402.165 to create the Statewide Human Rights Advocacy Committee within the Department of Legal Affairs. Requires the Department of Children and Family Services, through interagency agreement with the Department of Legal Affairs, to provide administrative support and service to the committee. Provides that the Committee is not subject to the control, supervision, or direction by the Department of Legal Affairs. Requires the Department of Legal Affairs to submit the Committee budget request to the Governor.

Section 4. Amends F.S. 402.166 to require the Department of Children and Family Services, through an interagency agreement with the Department of Legal Affairs, to assign staff to provide administrative support to the district human rights advocacy committees.

Section 5. Amends F.S. 402.167 to require the Department of Legal Affairs to adopt rules which address an interagency agreement with the Department of Children and Family Services by which staff will refer reports of abuse to district human rights advocacy committees. Requires the Department of Children and Family Services, through interagency agreement with the Department of Legal Affairs, to provide for the location of district human rights advocacy committees within district headquarters offices and to provide necessary equipment and office supplies. Requires the Secretary of the Department of Children and Family Services to ensure the full cooperation and assistance of employees of the Department.

Section 6. Provides an effective date of July 1 of the year in which enacted.

IV. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

The general revenue allocation to the Statewide Human Rights Advocacy Committee of \$273,327 and 2 FTE's will be transferred by a type two transfer to the Department of Legal Affairs from the Department of Children and Family Services.

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

N/A

V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

VI. COMMENTS:

N/A

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Two amendments were adopted on the floor of the House on April 28, 1998. The amendments clarified that the duties of the Statewide and district human rights advocacy committees shall not apply to residents of facilities under the jurisdiction of the State Long Term Ombudsman Council.

VIII. SIGNATURES:

COMMITTEE ON Family Law and Children:
Prepared by:

Legislative Research Director:

Stephanie Olin

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DATE: May 11, 1998

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FINAL RESEARCH PREPARED BY COMMITTEE ON Family Law and Children:

Prepared by:

Legislative Research Director:

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