

1989

## Session Law 89-215

Florida Senate & House of Representatives

Follow this and additional works at: <https://ir.law.fsu.edu/staff-analysis>



Part of the Legislation Commons

---

### Recommended Citation

House of Representatives, Florida Senate &, "Session Law 89-215" (1989). *Staff Analysis*. 903.  
<https://ir.law.fsu.edu/staff-analysis/903>

This Article is brought to you for free and open access by the Florida Legislative Documents at Scholarship Repository. It has been accepted for inclusion in Staff Analysis by an authorized administrator of Scholarship Repository. For more information, please contact [efarrell@law.fsu.edu](mailto:efarrell@law.fsu.edu).

**H 1781 GENERAL BILL/2ND ENG by Regulatory Reform; Morse  
(Similar CS/S 693)**

Human Rights Advocacy Committees; creates Statewide Human Rights Advocacy Committee within H.R.S. Dept.; creates district human rights advocacy committees in service districts of said dept.; provides duties of dept. re Statewide Human Rights Advocacy & district human rights advocacy committees; provides for sundown review, etc. Repeals 20.19(9)(10)(11). Appropriation: \$64,000. Effective Date: 10/01/89.

B  
I  
L  
L  
  
H  
I  
S  
T  
O  
R  
Y

05/08/89 HOUSE Filed  
05/09/89 HOUSE Introduced, placed on Calendar -HJ 437  
05/18/89 HOUSE Placed on Special Order Calendar  
05/29/89 HOUSE Read second time -HJ 712; Amendments adopted; Read third time; Passed as amended; YEAS 108 NAYS 1 -HJ 713  
05/29/89 SENATE In Messages  
05/31/89 SENATE Received -SJ 622; Substituted for CS/SB 693 -SJ 651, Passed as amended; YEAS 36 NAYS 0 -SJ 655  
05/31/89 HOUSE In Messages  
06/01/89 HOUSE Concurred; Passed as further amended; YEAS 116 NAYS 1 -HJ 1052  
06/01/89 Ordered engrossed, then enrolled  
06/13/89 Signed by Officers and presented to Governor  
06/28/89 Approved by Governor; Chapter No. 89-215.

**NOTES:** Above bill history from Division of Legislative Information's *FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS*. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.

STORAGE NAME: h1781-f.rr  
DATE: June 14, 1989

HOUSE OF REPRESENTATIVES  
COMMITTEE ON REGULATORY REFORM  
FINAL ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: HB 1781

RELATING TO: Human Rights Advocacy Committees

SPONSOR(S): Committee on Regulatory Reform and Representative Morse

CHAPTER #: 89-215, Laws of Florida

EFFECTIVE DATE: October 1, 1989

DATE BECAME LAW: June 28, 1989

COMPANION BILL(S): CS/SB 693

OTHER COMMITTEES OF REFERENCE: (1)  
(2)

\*\*\*\*\*

I. SUMMARY:

The bill reenacts the provisions relating to the Statewide Human Rights Advocacy Committee (SHRAC) and the district human rights advocacy committees (HRAC). The Statewide Committee will be responsible for the selection of the executive director and for the preparation of the budget to be submitted to the Governor by the department.

The bill provides for consumer representation on the Statewide and district committees as well as training for committee members. The Department of Health and Rehabilitative Services (HRS) will also be required to adopt procedures by which recommendations made by the district committees will be incorporated into departmental rules and policies.

A. PRESENT SITUATION:

The Human Rights Advocacy Committees (HRAC) were enacted into law in 1975, but came into existence in 1972 as a result of a Dade County Blue Ribbon jury investigation of conditions at the Miami Sunland Training Center.

Section 20.19 (9), (10), and (11), Florida Statutes, 1988 Supplement, provides that there shall be at least one HRAC in each of the eleven service districts of the Department of Health and Rehabilitative Services (HRS) and one Statewide Committee. The committees were established to act as third-party mechanism for the protection of the rights of HRS clients and the review of department activities by receiving and investigating reports of abuse and violation of client's rights, reviewing existing or new

programs and services, and reviewing the involvement of departmental clients in research projects.

The committees also are responsible for monitoring the quality of services provided by the department as well as making periodic site visits to facilities that are operated, funded, or licensed by the state.

The district committees are established in each of the 11 HRS service districts with at least one, but not to exceed three in each district, with the exception of district II where there may be four committees. Currently there are 29 district committees composed of three types of HRACs. The three types are Developmental Services HRACs, Mental Health HRACs and Districtwide HRACs which investigate and resolve reports of abuse or deprivation of client rights and monitor the quality of services provided by the department.

In addition to the district committees, there is a statewide committee which broadly represents the interests of the public and the clients of the department. [Section 20.19(9), Florida Statutes] The statewide committee also serves as a third-party mechanism for protecting the constitutional and human rights of HRS clients within a program or facility operated, funded, licensed, or regulated by the department.

The Statewide Committee serves as the appellate body of the HRAC system. The SHRAC receives, investigates, and resolves reports of abuse or deprivation of constitutional and human rights referred to it by a district human rights advocacy committee. The SHRAC may also address issues in the absence of a district appeal if the issue constitutes a threat to the life, safety, or health of clients or is of concern to more than one district. Once the SHRAC investigates a complaint, it may present its findings and recommendations to the Secretary of HRS or, if no resolution is reached with the department, it may make an appeal to the Governor.

The SHRAC is also responsible for developing and approving the operating procedures of the district HRACs.

The Statewide HRAC and the district HRACs are administratively housed in the Department of Health and Rehabilitative Services. The department's district offices provide staff support to the district HRACs. The Statewide Committee has one full-time professional staff person from the department secretary's office.

Each committee has between seven and fifteen volunteer members who are appointed by the Governor to serve three-year terms, not to exceed two consecutive terms. Membership is composed of at least two consumers (clients, immediate relatives, or legal representatives of the clients), two providers of services to clients of the department, at least one member of a health related profession, and at least one member of the legal profession.

STORAGE NAME: h1781-f.rr  
DATE: June 14, 1989  
PAGE: 3

The Statewide Human Rights Advocacy Committee (SHRAC) is composed of eleven members, one from each of the eleven HRS districts appointed by the Governor for three year terms. Membership must include a public official, representatives of nonprofit agencies or civic groups, consumers (clients), and a representative of both the health and legal professions.

The Statewide Human Rights Advocacy Committee is required to meet at least six times a year at the call of the chairperson and at other times at the call of the Governor or by written request of four members. District committees are also required to meet at least six times a year and at other times in the same manner as the statewide committee.

The Statewide Committee and the district HRACs are funded entirely with General Revenue through HRS's budget, and all staff support for the committees is provided by department employees.

**B. EFFECT OF PROPOSED CHANGES:**

The bill reestablishes the Human Rights Advocacy Committees and retains them within the Department of Health and Rehabilitative Services. The bill also reaffirms that the department will provide administrative support and service to the committees and that the committees will not be subject to control, supervision, or direction by the department in the performance of their duties. The bill further states that the committees are the "independent" third-party mechanism for protecting constitutional and human rights of any departmental client.

The term of appointment of a member to a committee would be 3 years. The public official appointed to the Statewide Committee would not have to have been a member of a district committee. The Governor would receive from the Statewide Committee a list of nominees for appointment to the Statewide Committee.

The Statewide Committee would be responsible for the selection of the executive director and for the preparation of the budget to be submitted to the Governor. The budget request will include the activities of both the Statewide Committee and the district committees. The Statewide Committee would also be allowed to receive grants and gifts as well as services from any governmental or public or private entity or person.

Requests for files, records or information for an investigation would not require a majority vote by a committee.

The Statewide Committee will be responsible for providing uniform procedures for carrying out the activities of the committees, including the formats for records and determining what constitutes a conflict of interest. The SHRAC will also be required to monitor the performance of district committees and provide them with technical assistance. They will develop a standardized training program for district committee members.

District committees will be subject to the direction and supervision of the Statewide Committee. District administrators for HRS will assign staff to provide administrative support to the district committees and the staff will function without interference from the department. District committees will have to meet at facilities under their direction whenever possible.

The bill now requires that one of the consumer representatives will be a consumer. Twenty-five percent of the members appointed to district committee would have to be a current or former clients of the department, except that one may be either a relative or legal representative of the a client. As a prerequisite before being assigned to an investigation and having access to confidential information, a district committee members would have to complete a standardized training course within three months of their appointment.

Committee would be authorized to monitor facilities operated or regulated by the department for the purpose of preventing abuse or deprivation of the constitutional and human rights of clients. Unannounced visits are conditioned upon a complaint. The committees would be required to make a report of its findings to the department.

The responsibilities of HRS in relation to the HRACs will require procedures to address access by committees to confidential information, use of HRAC recommendations by the department and reimbursement for committee members. The secretary would be required to ensure full cooperation and assistance of department employees with the committees.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

none

2. Recurring or Annualized Continuation Effects:

	(FY)	(FY)
	1989-90	1990-91
	-----	-----
O.P.S. Training	\$ 7,400	\$ 7,400

3. Long Run Effects Other Than Normal Growth:

none

4. Appropriations Consequences:

\$ 64,000

588

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

none

2. Recurring or Annualized Continuation Effects:

none

3. Long Run Effects Other Than Normal Growth:

none

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

none

2. Direct Private Sector Benefits:

none

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

none

D. FISCAL COMMENTS:

The current costs for the operation and staff of the Statewide Committee assumed by HRS are \$ 81,487.

The costs to HRS for all of the district committees was \$395,307, for Fiscal Year 1987-88, and \$400,612, projected for Fiscal Year 1988-89.

III. LONG RANGE CONSEQUENCES:

none

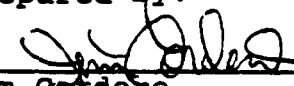
IV. COMMENTS:

none

VI. SIGNATURES:

SUBSTANTIVE COMMITTEE:

Prepared by:

  
\_\_\_\_\_  
Jim Cordero

Staff Director:

  
\_\_\_\_\_  
Patrick L. "Booter" Imhof

500

REVISED: May 18, 1989BILL NO. CS/SB 693DATE: May 17, 1989Page 1

## SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Goltry</u>	<u>Whiddon</u>	1. <u>HRS</u>	<u>Fav/CS</u>
2. <u>Martin</u>	<u>Smith</u>	2. <u>AP</u>	<u>Fav/2 Amend.</u>
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

## SUBJECT:

Statewide Human Rights  
Advocacy Committee and the  
District Human Rights Advocacy  
Committee

## BILL NO. AND SPONSOR:

CS/SB 693 by  
Committee on Health and  
Rehabilitative Services

I. SUMMARY:

## A. Present Situation:

The Statewide and District Human Rights Advocacy Committees (SHRAC and HRACs) were created in 1972 as a result of a Dade County Blue Ribbon jury investigation of conditions at the Miami Sunland Training Center. In 1975, the Legislature enacted into law what are now sections (9), (10) and (11) of chapter 20.19, Florida Statutes, creating at least one HRAC in each Department of Health and Rehabilitative Services (HRS) service district and creating the Statewide Committee. The committees were envisioned as an advocacy system that would work cooperatively with HRS but which would act as a third-party agent for its clients with no obligations to or constraints from the department.

The SHRAC is composed of eleven volunteer members, appointed by the Governor, one from each HRS district, who are representative of certain citizen groups. Membership must include a public official, representatives of nonprofit agencies or civic groups, consumers, and a representative of both the health and legal professions.

The District HRACs are composed of at least seven and no more than 15 members, including both professional and consumer representation. The type of facilities and services reviewed by HRACs is dependent on the function of the committee or the trends in the complaints it receives. Mental health institutions are monitored by Mental Health HRACs, who also monitor contracted mental health providers. Developmental Services HRACs generally monitor a broad range of facilities and services including state institutions, group homes and day training programs. District HRACs encompass all program areas unless other committees have been assigned jurisdiction, and generally follow trends within the districts in order to focus on problem areas. There are currently 29 district committees and one statewide committee. The total membership of these committees is approximately 300 volunteers. Each HRS district has a committee, districts 2, 3, 4, 5, 8, 10, 11 have mental health committees and all districts except district 4 have developmental services committees.

The statute charges the HRACs with the responsibility of serving as a third-party mechanism for protecting the constitutional and human rights of clients of HRS. To carry out this charge, the committees receive and investigate reports of abuse or deprivation of constitutional and human rights of any client within a program or facility operated, funded, regulated or licensed by the department. If a district committee is unable to resolve a complaint, it is appealed to the Statewide HRAC, which maintains contact with the Office of the HRS Secretary and serves as the appellate body for the HRAC



system. Appeals generally occur when a district HRAC cannot resolve a complaint because the issue involves statewide policy, rule or law. The committees also review existing programs and services and new or revised programs of the department by conducting site visits and through review of manuals, rules, and regulations developed for operation of the programs.

In order to carry out their responsibilities in regard to investigations of abuse or violations of clients' rights, the committees are given statutory authority for access to all client records, files and reports from any agency or department of government, except matters under investigation by law enforcement or judicial authority, and access to all client records, files and reports in any program, service or facility that is operated, funded, licensed or regulated by the department. Certain exceptions to access are provided, and the committees are given standing to petition the court for access to records otherwise shielded by law, with the exception of confidential adoption records. All information obtained by committees under these provisions is exempt from public records and meetings laws, and disclosure of confidential information is a second degree misdemeanor.

The Committees also monitor HRS activities through review of the department's incident reports. Reports of abuse made to the Abuse Registry and investigated by HRS are also reviewed by the committees pursuant to the provisions of chapter 415, Florida Statutes. If the committee has a concern about a report or an allegation of abuse, members may conduct their own independent investigation. Upon completion of such an investigation, the committee may make recommendations to HRS and follow up to ensure appropriate action is taken.

Two other activities in which the HRACs are involved are reviewing research projects and serving as representatives for individuals during the Baker Act process. In reviewing research projects, the committees focus on the involvement of clients as subjects insofar as their human rights are affected. The HRACs are designated as representative for individuals during Baker Act proceedings when the person has no guardian and does not designate a representative.

During 1987-88, the district HRACs received 5,682 complaints, performed 635 monitoring site visits, reviewed 8,930 unusual incident reports, reviewed 7,255 reports of child or adult abuse and investigated 2,076 of those reports. Five of the district committees reviewed 15 research projects that involved clients. In addition, HRAC members were appointed Baker Act representatives for 4,490 clients and attended 603 Baker Act hearings.

The SHRAC and HRACs are funded entirely with General Revenue through HRS, and all staff support for the committees is provided by HRS employees. The appropriation to the SHRAC for 1987-88 for staff salaries and committee expenses was \$69,212. The appropriation for the Districts HRACs for expenses for committee members was \$74,490. The department estimates that in Fiscal Year 1987-88, the cost for district staff, expenses and operating capital outlay (OCO) to HRS for the District HRACs was \$395,307.

In the last ten years, the HRACs have been involved in a variety of issues relating to the resolution of both specific client concerns and problems which are systemic in nature. Through issues identified at the district level, the HRACs and SHRAC have played a significant role in the development of policies and procedures and in statutory changes resulting in the improvement of services to clients. The SHRAC and HRACs were subject to a Sundown review in 1981 and were continued with some amendments. The committees are scheduled for repeal

October 1, 1989 and were the subject of a Sundown review during the 1988-89 interim. The Sundown review concluded with a number of recommendations for changes that would improve the operation and functioning of the committees.

B. Effect of Proposed Changes:

Committee Substitute for Senate Bill 693 implements the recommendations in the Sundown review of the Statewide and District Human Rights Advocacy Committees, making the following changes to the current law:

Section 1. Continues the SHRAC in the Department of HRS; requires that HRS provide administrative support to the committee; requires that one member of SHRAC must be a provider of services; reduces to three the number of representatives of non-profit agencies; requires that three HRS consumers be members of SHRAC; requires that all members of SHRAC, except the elected official, must have served on a district committee within 4 years of their appointment to SHRAC; requires that the members of the SHRAC be selected from a list of candidates submitted by district committees to SHRAC; provides for selection of an executive director by SHRAC; provides authority for SHRAC to receive grants and payments and for SHRAC to submit a budget for the SHRAC and district committees; authorizes the committees to monitor facilities pursuant to complaints and provides a mechanism for committees to generate a complaint under certain circumstances; requires the SHRAC to establish uniform procedures for SHRAC and district HRACs and specifies the content of the procedures; requires SHRAC to monitor and provide technical assistance to district committees; requires SHRAC to provide training for district committee members; clarifies provisions relating to access of records; deletes requirements for a majority vote of the committee and for a request in writing for committee members to access records.

Section 2. Provides for district HRACs to be subject to the direction and supervision of the SHRAC; requires the district administrator to provide administrative support to committees; requires that staff assigned to the committees be free of interference from HRS; requires that at least 25% of the members of the district committee be current or former consumers and allows one consumer member to be a relative or legal representative; requires that all members of district HRACs complete a training course within 3 months of their appointment and requires that training as a condition for access to confidential information; prohibits discrimination against any member of a committee in regard to assignment of responsibilities; authorizes committees to monitor facilities pursuant to complaints and provides a mechanism for committees to generate complaints under certain circumstances; deletes provisions which require district committees to develop procedures; deletes language limiting access to certain mental health records; deletes requirements for a majority vote of the committee and for a request in writing for committee members to access records.

Section 3. Describes the responsibilities of HRS in relation to HRACs; requiring procedures to address access by committees to confidential information, use of HRAC recommendations by HRS and reimbursement for committee members; requires HRS to provide for the location of district HRACs in HRS district offices and to provide supplies; requires the Deputy Secretary for Operations of HRS to ensure cooperation of HRS staff with HRACs; requires that to the extent possible, staff assigned to the HRACs are to be free from interference by HRS.

Section 4. Repeals certain provisions pursuant to the Sundown Act.

Section 5. Provides for review and repeal pursuant to s. 11.611, Florida Statutes.

Section 6. Provides an effective date.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

All costs for the operation and staff of the SHRAC and the district HRACs are assumed by HRS and funded by General Revenue. The SHRAC staffing and support costs to HRS are currently \$81,487.

In a survey conducted by HRS, each district was asked to estimate the cost of supporting the District HRACs. For Fiscal Year 1987-88, the cost to HRS for district HRAC's was \$395,307. The 1988-89 projected amount was \$400,612.

In order to carry out the provisions of this bill, several additional costs would be incurred. In order to provide adequate staff for supervision, technical assistance and the development of a uniform training program, SHRAC estimates the following additional costs:

	<u>1989-90</u> (9mos.)	<u>1990-91</u> (12 mos.)
Administrative		
Assistant (1 FTE)	\$20,295	\$27,242
OPS-Training	7,400	\$ 7,400
Expense	\$ 8,973	\$11,216
OCO	\$ 792	
Travel		
(Committee)	\$ 4,365	\$ 4,365
(Staff)	<u>\$ 2,750</u>	<u>\$ 2,750</u>
TOTAL	\$44,575	\$52,973

In addition, the upgrade of the Executive Director to Select Exempt Service would require an additional \$5,247. The 1989-90 HRS budget request includes \$13,920 for additional travel for district HRACs.

III. COMMENTS:

Committee Substitute for Senate Bill 693 addresses recommendations of the Sundown Review of SHRAC and the HRACs, as well as some issues that have been raised since the completion of the report. The roles of committee members, their selection and the composition of the committees is clarified and the specific duties and authority of members is clarified. The role of consumer members is strengthened by requiring that all members of district committees be allowed to participate in the committee fully, except when a conflict of interest as clearly provided in the SHRAC procedures exists.

Other issues addressed in the bill clarify and describe procedures relating to the effective functioning of the committees. These include promulgation of standards and procedures by SHRAC, access to records by committee members without a majority vote, training requirements for all members, and independence of committee activities and assigned staff from HRS control or interference.

REVISED: May 18, 1989

BILL NO. CS/SB 693

DATE: May 17, 1989

Page 5

---

IV. AMENDMENTS:

Amendment #1 by Appropriations: Appropriates \$64,000 from General Revenue Fund to carry out provisions of the bill.

Amendment #2 by Appropriations: Title amendment.